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LOS ANGELES

A TREATISE

ON THE

SOCIAL COMPACT;

OR

The PRINCIPLES of

POLITIC LAW.

By J. J. ROUSSEAU,

Citizen of GENEVA.

A NEW EDITION.

——— *Fœderis æquas*
Dicamus leges. Æneid. xi.

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M DCC XCI.

ADVERTISEMENT.

THIS little treatiſe is taken from a much larger work, in which I formerly engaged, without having duly conſulted my abilities. I have, therefore, long ſince laid it aſide; conceiving it proper to offer the following extract only to the public, as the leaſt exceptionable part of the performance.

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LOS ANGELES

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A

TREATISE

ON THE

SOCIAL COMPACT, &c.

BOOK I.

INTRODUCTION.

MY deſign, in the preſent treatiſe, is to inquire, Whether the nature of ſociety admits of any fixed and equitable rules of government, ſuppoſing mankind to be ſuch as they are, and their laws ſuch as they might be made. In this inveſtigation I ſhall endeavour conſtantly to join the conſiderations of natural right and public intereſt, ſo that juſtice and utility may never be diſunited.

This being premiſed, I ſhall enter on my ſubject, without expatiating on its importance. If

it be aſked, Whether I am a prince or legiſlator, that I thus take upon me to write on politics? I anſwer, I am neither; and that it is for this reaſon I write. Were I a prince or legiſlator I would not throw away my time in pointing out what ought to be done; I would myſelf put it in practice, or be ſilent.

As the citizen of a free ſtate, and a member of the ſupreme power, by birth, however weak may be the influence of my ſingle vote in public affairs, the right of giving that vote is ſufficient to impoſe on me the duty of making thoſe affairs my ſtudy, thinking myſelf happy in diſcuſſing the various forms of government, to find every day new reaſons for admiring that of my own country *!

CHAP. I.

The ſubject of the firſt book.

MAN is born free, and yet is univerſally enſlaved. At the ſame time, an individual frequently conceives himſelf to be the lord and maſter over others, though only more eminently deprived of liberty. Whence can this change ariſe? Are there any means by which it may be rendered lawful? The former queſ-

* Geneva.

tion

tion I cannot anſwer, though I imagine myſelf capable of reſolving the latter.

If I took into conſideration only the exiſtence and effects of power, I ſhould ſay, So long as a people are compelled to obey, they do well to be obedient; but, as ſoon as they are in a capacity to reſiſt, they do better to throw off the yoke of reſtraint: For, in recovering their liberty on the ſame plea by which they loſt it, either they have a juſt right to reaſſume it, or thoſe could have none who deprived them of it. But there is an inviolable right founded on the very nature of ſociety, which ſerves as the baſis of all others. Man doth not derive this right, however, immediately from nature; it is founded on mutual convention. We muſt proceed, then, to inquire, of what kind ſuch convention muſt have been. But, before we come to argue this point, I ſhould eſtabliſh what I have already advanced.

CHAP. II.

On the primitive ſtate of ſociety.

THE moſt ancient of all ſocieties, and the only natural one, is that of a family. And even in this, children are no longer connected with their father, than while they ſtand in need of his aſſiſtance. When this becomes

needleſs, the natural tie is of courſe diſſolved, the children are exempted from the obedience they owe their father, and the father is equally ſo from the ſolicitude due from him to his children; both aſſume a ſtate of independence reſpecting each other. They may continue, indeed, to live together afterwards; but their connection, in ſuch a caſe, is no longer natural, but voluntary; and even the family union is then maintained by mutual convention.

This liberty, which is common to all mankind, is the neceſſary conſequence of our very nature; whoſe firſt law being that of ſelf-preſervation, our principal concerns are thoſe which relate to ourſelves; no ſooner, therefore, doth man arrive at years of diſcretion, than he becomes the only proper judge of the means of that preſervation, and of courſe his own maſter.

In a family, then, we may ſee the firſt model of political ſocieties: their chief is repreſented by the father, and the people by his children, while all of them being free, and equal by birth, they cannot alienate their liberty, but for their common intereſt. All the difference between a family and a ſtate, lies in this, That, in the former, the love which a father naturally bears to his children is a compenſation for his ſolicitude concerning them; and, in the latter, it is the pleaſure of

of command that ſupplies the place of this love, which a chief doth not entertain for his people.

Grotius denies that government is inveſted with power ſolely for the benefit of thoſe who are governed, and cites the caſe of ſlaves as an example. It is, indeed, his conſtant practice, to eſtabliſh the matter of right on the matter of fact *. He might have employed a more concluſive method, though not a more favourable one for tyrannical governments.

It is then doubtful, according to Grotius, whether the whole race of mankind, except about an hundred individuals, belong to thoſe individuals, or whether the latter belong to the whole race of mankind; and he appears, throughout his whole work, to lean to the former opinion. This is alſo the opinion of Hobbes. Thus they divide the human ſpecies into herds of cattle, each of which hath its keeper, who protects it from others, only that he may make a property of it himſelf.

* "The learned reſearches into the laws of nature and nations are often nothing more than the hiſtory of ancient abuſes; ſo that it is a ridiculous infatuation to be too fond of ſtudying them." *Manuſcript Treatiſe on the Intereſts of France, by the Marquis d'A.* This was exactly the caſe with Grotius.

As a ſhepherd is of a ſuperior nature to his flock, ſo the herd-keepers of men, or their chiefs, are of a ſuperior nature to the herd, over which they preſide. Such was the reaſoning, according to Philo, of the Emperor Caligula, who concluded logically enough from this analogy, that either kings were gods, or their ſubjects no better than brutes.

This argument of Caligula bears much reſemblance to thoſe of Hobbes and Grotius. Ariſtotle had ſaid, indeed, before either of them, that men were not naturally equal; but that ſome of them were born to ſlavery, and others to dominion.

Ariſtotle was right as to the fact, but miſtook the effect for the cauſe. Nothing is more certain, than that every man born in ſlavery is born to be a ſlave. In ſuch a ſtate, men loſe even the deſire of freedom, and prefer ſubjection, as the companions of Ulyſſes did their brutality *. If there are any ſlaves, therefore, by nature, it is becauſe they are ſlaves contrary to nature. Power firſt made ſlaves, and cowardice hath perpetuated them.

* See a little tract written by Plutarch, on the rationality of brutes.

I have

I have ſaid nothing of king Adam, or the emperor Noah, father of three monarchs, who, like the children of Saturn, as ſome have imagined them to be, divided the world among them. I hope my moderation alſo in this reſpect will be eſteemed ſome merit; for, as I am deſcended in a right line from one of theſe princes, and probably from the eldeſt branch of the family, how do I know, that, by a regular deduction of my deſcent, I might not find myſelf the legitimate heir to univerſal monarchy? Be this, however, as it may, it cannot be denied, that Adam had as good a title to the ſovereignty of the world, when he was the only perſon in it, as Robinſon Cruſoe had to that of his iſland under the ſame circumſtances. A very great conveniency alſo attended their government, in that the monarch might reſt ſecurely on his throne, without fear of wars, conſpiracies, or rebellion.

CHAP. III.

On the right of the Strongeſt.

THE ſtrongeſt is not ſtrong enough to continue always maſter, unleſs he transforms his power into a right of command, and obedience into a duty. Hence is deduced the right of the ſtrongeſt; a right taken ironically in ap-

pearance, and laid down as an eſtabliſhed principle in reality. But will this term never be rightly explained? Force, in the ſimpleſt ſenſe, is a phyſical power; nor can I ſee what morality can reſult from its effects. To yield to ſuperior force is an act of neceſſity, not of the will; at moſt it is but an act of prudence. And in what ſenſe can this be called a duty?

Let us ſuppoſe, however, for a moment, this pretended right eſtabliſhed, and we ſhall ſee it attended with inexplicable abſurdities; for, if it be admitted, that power conſtitutes right, the effect changes with the cauſe, and every ſucceeding power, if greater than the former, ſucceeds alſo to the right; ſo that men may lawfully diſobey, as ſoon as they can do it, with impunity; and, as right is always on the ſtrongeſt ſide, they have nothing more to do, than to acquire ſuperior force. Now what kind of right can that be, which vaniſhes with the power of enforcing it? If obedience be only exacted by compulſion, there is no need to make ſuch obedience a duty, as when we are no longer compelled to obey, we are no longer obliged to it. It appears, therefore, that the word *right* adds nothing in this caſe to that of force, and, in fact, is a term of no ſignification.

Be obedient to the higher powers. If by this precept is meant, *ſubject to a ſuperior force*, the advice is good, though ſuperfluous; I will anſwer for it, ſuch a rule will never be broken. All power, I own, is derived from God; but every corporeal malady is derived alſo from the ſame ſource. But are we therefore forbid to call in the phyſician? If a robber ſhould ſtop me on the highway, am I not only obliged, on compulſion, to give him my purſe, but am I alſo obliged to it in point of conſcience, though I might poſſibly conceal it from him? This will hardly be averred; and yet the piſtol he holds to my breaſt, is, in effect, a ſuperior force.

On the whole, we muſt conclude, then, that mere power doth not conſtitute right, and that men are obliged only to pay obedience to lawful authority. Thus we are conſtantly recurring to my firſt queſtion.

CHAP. IV.

On ſlavery.

AS no man hath any natural authority over the reſt of his ſpecies, and as power doth not confer right, the baſis of all lawful authority is laid in mutual convention.

If an individual, ſays Grotius, can alienate his liberty, and become the ſlave of a maſter, why may not a whole people collectively alienate theirs, and become ſubject to a king? This propoſition, however, contains ſome equivocal terms, which require explanation, but I ſhall confine myſelf to that of *alienate*. Whatever is alienated muſt be diſpoſed of, either by gift or ſale. Now a man who becomes the ſlave of another doth not give himſelf away, but ſells himſelf, at leaſt for his ſubſiſtence; but why ſhould a whole people ſell themſelves? So far is a king from furniſhing his ſubjects ſubſiſtence, that they maintain him; and, as our friend Rabelais ſays, A king doth not live on a little. Can ſubjects be ſuppoſed to give away their liberty, on condition that the receiver ſhall take their property along with it? After this, I really cannot ſee any thing they have left.

It may be ſaid, a monarch maintains among his ſubjects the public tranquillity. Be it ſo; I would be glad to know, of what they are gainers, if the wars in which his ambition engages them, if his inſatiable avarice, or the oppreſſions of his miniſters, are more deſtructive than civil diſſenſions? Of what are they gainers, if even this tranquillity be one cauſe of their miſery? A priſoner may live tranquil enough in his dungeon; but will this be ſufficient to make him contented there? When the Greeks were ſhut

up

up in the cave of the Cyclops, they lived there unmoleſted, in expectation of their turn to be devoured.

To ſay, that a man can give himſelf away, is to talk unintelligibly and abſurdly; ſuch an act muſt neceſſarily be illegal and void, were it for no other reaſon, than that it argues inſanity of mind in the agent. To ſay the ſame thing of a whole people therefore, is to ſuppoſe a whole nation can be at once out of their ſenſes; but were it ſo, ſuch madneſs could not confer right.

Were it poſſible alſo for a man to alienate himſelf, he could not, in the ſame manner, diſpoſe of his children, who, as human beings, are born free; their freedom is their own, and nobody hath any right to diſpoſe of it but themſelves. Before they arrive at years of diſcretion, indeed, their father may, for their ſecurity, and in their name, ſtipulate the conditions of their preſervation, but he cannot unconditionally and irrevocably diſpoſe of their perſons, ſuch a gift being contrary to the intention of nature, and exceeding the bounds of paternal authority. It is requiſite, therefore, in order to render an arbitrary government lawful, that every new generation ſhould be at liberty to admit or reject its authority, in which caſe it would be no longer an arbitrary government.

To renounce one's natural liberty, is to renounce one's very being as a man; it is to renounce not only the rights, but even the duties of humanity. And what poſſible indemnification can be made the man who thus gives up his all? Such a renunciation is incompatible with our very nature; for to deprive us of the liberty of the will, is to take away all morality from our actions. In a word, a convention, which ſtipulates on the one part abſolute authority, and on the other implicit obedience, is, in itſelf, futile and contradictory. Is it not evident, that we can lie under no reciprocal obligation whatever to a perſon, of whom we have a right to demand every thing; and doth not this circumſtance, againſt which he has no equivalent, neceſſarily infer ſuch act of convention to be void? For what claim can my ſlave have upon me, when he himſelf, and all that belongs to him, are mine? His claims are of courſe my own, and to ſay thoſe can be ſet up againſt me, is to talk abſurdly.

Again, Grotius and others have deduced the origin of this pretended right from the ſuperiority obtained in war. The conqueror, ſay they, having a right to put the vanquiſhed to death, the latter may equitably purchaſe his life at the expence of his liberty; ſuch an agreement being

the more lawful, as it conduces to the mutual advantage of both parties.

It is clear and certain, however, that this pretended right of the victor over the lives of the vanquiſhed is not, in any ſhape, the natural reſult of a ſtate of war. This is plain, were it for no other reaſon than that the reciprocal relations of mankind, while living together in their primitive independence, were not ſufficiently durable, to conſtitute a ſtate, either of peace or war; ſo that men cannot be naturally enemies. It is the relation ſubſiſting between things, and not between men, that gives riſe to war; which ariſing thus, not from perſonal, but real, relations, cannot ſubſiſt between man and man, either in a ſtate of natnre, in which there is no ſettled property, or in a ſtate of ſociety, in which every thing is ſecured by the laws.

The quarrels, encounters and duels of individuals are not ſufficient to conſtitute ſuch a ſtate of war; and, with regard to the particular combats authoriſed by the inſtitutions of Lewis XI. King of France; they were only ſome of the abuſes of the feudal government, a ſyſtem truly abſurd, as contrary to the principles of natural juſtice, as of good policy.

War

War is not, therefore, any relation between man and man, but a relation between ſtate and ſtate, in which individuals are enemies only accidentally, not as men, or even as citizens, but as ſoldiers; not as members of their particular community, but as its defenders. In ſhort, a ſtate can have for its enemy nothing but a ſtate, not men; as between things eſſentially different, there can be no common relation.

This principle is, indeed, conformable to the eſtabliſhed maxims of all ages, and the conſtant practice of every civilized people. Declarations of war are made leſs to give notice to ſovereigns, than to their ſubjects.

The foreigner, whether a ſovereign, an individual, or a people, who plunders, kills, or takes priſoner a ſubject, without declaring war againſt his prince, is not an enemy, but a robber. Even in a time of war, a juſt prince may make himſelf maſter, in an enemy's country, of whatever belongs to the public, but he will reſpect the perſons and private properties of individuals; he will reſpect thoſe rights on which his own are founded. The deſign of war being the deſtruction of an hoſtile ſtate, we have a right to kill its defenders, while they are in arms; but as, in laying down their arms, they ceaſe to be enemies,

or

or inſtruments of hoſtility, they become, in that caſe, mere men, and we have not the leaſt right to murder them. It is ſometimes poſſible effectually to deſtroy a ſtate, without killing even one of its members; now war cannot confer any right or privilege, which is not neceſſary to accompliſh its end and deſign. It is true, theſe are not the principles of Grotius, nor are they founded on the authority of the poets; but they are ſuch as are deduced from the nature of things, and are founded on reaſon.

With regard to the right of conqueſt, it has no other foundation than that of force, the law of the ſtrongeſt. But, if war doth not give the victor a right to maſſacre the vanquiſhed, this pretended right, which does not exiſt, cannot be the foundation of a right to enſlave them. If we have no right to kill an enemy, unleſs we cannot by force reduce him to ſlavery, our right to make him a ſlave never can be founded on our right to kill him. It is, therefore, an iniquitous bargain, to make him purchaſe, at the expence of liberty, a life, which we have no right to take away. In eſtabliſhing thus a right of life and death over others, on that of enſlaving them; and, on the other hand, a right of enſlaving them on that of life and death, we certainly fall into the abſurdity of reaſoning in a circle.

Let

Let us ſuppoſe, however, that this ſhocking right of general maſſacre exiſted, I ſtill affirm, that a ſlave, made ſo by the fortune of war, or a conquered people, ſo reduced to ſlavery, lie under no other obligations to their maſter, than to obey him ſo long as he hath the power to compel them to it. In accepting of an equivalent for their lives, the victor confers on them no favour; inſtead of killing them uſeleſsly, he hath only varied the mode of their deſtruction to his own advantage. So far, therefore, from his having acquired over them any additional authority, the ſtate of war ſubſiſts between them as before; their relation to each other is the evident effect of it, and his exertion of the rights of war is a proof, that no treaty of peace hath ſucceeded. Will it be ſaid, they have made a convention; be it ſo: This convention is a mere truce, and is ſo far from putting an end to the ſtate of war, that it neceſſarily implies its continuation.

Thus, in whatever light we conſider this affair, the right of making men ſlaves is null and void, not only becauſe it is unjuſt, but becauſe it is abſurd and inſignificant. The terms *ſlavery* and *juſtice* are contradictory and reciprocally excluſive of each other. Hence the following propoſal

poſal would be equally ridiculous, whether made by one individual to another, or by a private man to a whole people. *I enter into an agreement with you, altogether at your own charge, and ſolely for my profit, which I will obſerve as long as I pleaſe, and which you are to obſerve alſo, as long as I think proper.*

CHAP. V.

On the neceſſity of recurring always to the primitive convention.

ON the ſuppoſition, that I ſhould grant to be true what I have hitherto diſproved, the advocate for deſpotiſm would, however, profit but little. There will be always a great difference between ſubjecting a multitude, and governing a ſociety. Let individuals, in any number whatever, become ſeverally and ſucceſſively ſubject to one man, they are all, in that caſe, nothing more than maſter and ſlaves; they are not a people governed by their chief; they are an Aggregate if you will, but do not form an aſſociation; there ſubſiſts among them neither commonwealth nor body politic. Such a ſuperior, though he ſhould become the maſter of half the world, would be ſtill a private perſon, and his intereſt, ſeparate and diſtinct from that of his people, would be ſtill no more than a private

private intereſt. When ſuch a perſon dies, alſo the empire over which he preſided is diſſolved, and its component parts remain totally unconnected, juſt as an oak falls into a heap of aſhes, when it is conſumed by the fire.

A people, ſays Grotius, may voluntarily beſtow themſelves on a king: According to Grotius, therefore, a people are a people before they thus give themſelves up to regal authority. Even this gift, however, is an act of ſociety, and preſuppoſes a public deliberation on the matter. Hence, before we examine into the act, by which a people make choice of a king, it is proper to examine into that by which a people became a people, for, on this, which is neceſſarily prior to the other, reſts the true foundation of ſociety.

For, if, in fact, there be no prior convention, whence ariſes (unleſs indeed the election was unanimous) the obligation of the ſmaller number to ſubmit to the choice of the greater? and whence comes it, that an hundred perſons, for inſtance, who might deſire to have a maſter, had a right to vote for ten others who might deſire to have none? The choice by a plurality of votes is in itſelf an eſtabliſhment of convention, and ſuppoſes, that unanimity muſt at leaſt for once have ſubſiſted among them.

CHAP.

CHAP. VI.

On the ſocial pact or covenant.

I Suppoſe mankind arrived at that term, when the obſtacles to their preſervation, in a ſtate of nature, prevail over the endeavours of individuals, to maintain themſelves in ſuch a ſtate. At ſuch a criſis this primitive ſtate therefore could no longer ſubſiſt, and the human race muſt have periſhed, if they had not changed their manner of living.

Now as men cannot create new powers, but only compound and direct thoſe which really exiſt, they have no other means of preſervation, than that of forming, by their union, an accumulation of forces, ſufficient to oppoſe the obſtacles to their ſecurity, and of putting theſe in action by a firſt mover, capable of making them act in concert with each other.

This general accumulation of power cannot ariſe but from the concurrence of many particular forces; but the force and liberty of each individual being the principal inſtruments of his own preſervation, how is he to engage them in the common intereſt, without hurting his own, and neglecting the obligations he lies under to himſelf?

himſelf? This difficulty, being applied to my preſent ſubject, may be expreſſed in the following terms:

"To find that form of aſſociation which ſhall protect and defend, with the whole force of the community, the perſon and property of each individual, and in which each perſon, by uniting himſelf to the reſt, ſhall nevertheleſs be obedient only to himſelf, and remain as fully at liberty as before." Such is the fundamental problem, of which the ſocial compact gives the ſolution.

The clauſes of this compact are ſo preciſely determined by the nature of the act, that the leaſt reſtriction or modification renders them void and of no effect; in ſo much, that, although they may perhaps never have been formally promulgated, they are yet univerſally the ſame, and are every where tacitly acknowledged and received. When the ſocial pact, however, is violated, individuals recover their natural liberty, and are re-inveſted with their original rights, by loſing that conventional liberty for the ſake of which they had renounced them.

Again; theſe clauſes, well underſtood, are all reducible to one, *viz.* the total alienation of every individual, with all his rights and privileges,

leges, to the whole community. For, in the firſt place, as every one gives himſelf up entirely and without reſerve, all are in the ſame circumſtances, ſo that no one can be intereſted in making their common connection burthenſome to others.

Beſides, as the alienation is made without reſerve, the union is as perfect as poſſible, nor hath any particular aſſociate any thing to reclaim; whereas, if they ſhould ſeverally retain any peculiar privileges, there being no common umpire to determine between them and the public, each being his own judge in ſome caſes, would, in time, pretend to be ſo in all, the ſtate of nature would ſtill ſubſiſt, and their aſſociation would neceſſarily become tyrannical or void.

In fine, the individual, by giving himſelf up to all, gives himſelf to none; and, as he acquires the ſame right over every other perſon in the community, as he gives them over himſelf, he gains an equivalent for what he beſtows, and ſtill a greater power to preſerve what he retains.

If, therefore, we take from the ſocial compact every thing that is not eſſential to it, we ſhall find it reduced to the following terms: "We, the contracting parties, do jointly and ſeverally ſubmit our perſons and abilities, to the ſupreme direction of the general will of all, and, in a collective

collective body, receive each member into that body, as an indiviſible part of the whole."

This act of aſſociation accordingly converts the ſeveral individual contracting parties into one moral collective body, compoſed of as many members as there are votes in the aſſembly, which receives alſo from the ſame act its unity and exiſtence. This public perſonage, which is thus formed by the union of all its members, uſed formerly to be denominated a CITY *, and, at preſent,

* The true ſenſe of this word is almoſt entirely perverted among the moderns; moſt people take a town for a city, and an houſe-keeper for a citizen. Such are ignorant, however, that, though houſes may form a town, it is the citizens only that conſtitute a city. This ſame errour formerly coſt the Carthaginians very dear. I do not remember, in the courſe of my reading, to have ever found the title of *Cives* given to the ſubjects of a prince, not even formerly to the Macedonians, nor, in our times, to the Engliſh, though more nearly bordering on liberty than any other nation. The French are the only people who familiarly take on themſelves the name of *citizens*, becauſe they have no juſt idea of its meaning, as may be ſeen in their dictionaries; for, were it otherwiſe, indeed, they would be guilty of high treaſon in aſſuming it. This term is with them rather expreſſive of a virtue than a privilege. Hence, when Bodin ſpoke of the citizens and inhabitants of Geneva,

preſent, takes the name of a *republic*, or *body politic*. It is alſo called, by its ſeveral members, a *ſtate*, when it is paſſive; the *ſovereign*, when it is active; and ſimply a *power*, when it is compared with other bodies of the ſame nature. With regard to the aſſociates themſelves, they take collectively the name of the *people*, and are ſeparately called *citizens*, as partaking of the ſovereign authority, and *ſubjects*, as ſubjected to the laws of the ſtate. Theſe terms, indeed, are frequently confounded, and miſtaken one for the other; it is ſufficient, however, to be able to diſtinguiſh them, when they are to be uſed with preciſion.

CHAP. VII.

Of the ſovereign.

IT is plain from the above formula, that the act of aſſociation includes a reciprocal engagement between particulars and the public;

neva, he committed a wretched blunder, in miſtaking one for the other. Mr. d'Alembert indeed has avoided this miſtake in the Encyclopœdia, where he has properly diſtinguiſhed the four orders of people (and even five, reckoning mere ſtrangers) that are found in our city, and of which two only compoſe the republic: No other French author that I know of hath ever comprehended the meaning of the word *citizen*.

and

and that each individual, in contracting, if I may ſo ſay, with himſelf, is laid under a twofold engagement, *viz.* as a member of the ſovereignty toward particular perſons, and as a member of the ſtate toward the ſovereign. That maxim of the civil law, however, is inapplicable here, which ſays, that no one is bound by the engagements he enters into with himſelf; for there is a wide difference between entering into a perſonal obligation with one's ſelf, and with a whole, of which one may conſtitute a part.

It is farther to be obſerved, that the public determination, which is obligatory on the ſubject, with regard to the ſovereign, on account of the twofold relation by which each ſtands contracted, is not, for the contrary reaſon, obligatory on the ſupreme power towards itſelf: and that it is conſequently inconſiſtent with the nature of the body politic, that ſuch ſupreme power ſhould impoſe a law, which it cannot break. For, as the ſovereign ſtands only in a ſingle relation, it is in the ſame caſe as that of an individual contracting with himſelf; whence it is plain, that there neither is, nor can be, any fundamental law obligatory on the whole body of a people, even the ſocial compact itſelf not being ſuch. By this, however, it is not meant, that ſuch a body cannot enter into engagements with others, in matters that do not derogate from

from this contract; for, with respect to foreign objects, it is a simple and individual person.

But, as the body politic, or the sovereign, derives its very existence from this inviolable contract, it can enter into no lawful engagement, even with any similar body, derogatory from the tenour of this primitive act; such as that of alienating any part of itself, or of submitting itself intirely to a foreign sovereign. To violate the act whereby it exists would be to annihilate itself, and from nothing can arise nothing.

No sooner are a multitude of individuals thus united in a body, than it becomes impossible to act offensively against any of the members, without attacking the whole, and still less to offend the whole body, without injuring the members. Hence both duty and interest equally oblige the two contracting parties to assist each other, and the same persons ought to endeavour to include, within this twofold relation, all the advantages which depend on it.

Now the sovereign, being formed only by the several individuals of which the state is composed, can have no interest contrary to theirs; of course the supreme power stands in no need of any guarantee toward the subjects, because it is

impoſſible, that the body ſhould be capable of hurting all its members; and we ſhall ſee hereafter, that it can as little tend to injure any of them in particular. Hence the ſovereign is neceſſarily, and for the ſame reaſon that it exiſts, always ſuch as it ought to be.

The caſe is different, however, as to the relation in which the ſubjects ſtand to the ſovereign; as, notwithſtanding their common intereſt, the latter can have no ſecurity that the former will diſcharge their engagements, unleſs means be found to engage their fidelity.

In fact, every individual may, as a man, entertain a particular will, either contradictory or diſſimilar to his general will, as a citizen. His private intereſt may influence him, in a manner diametrically oppoſite to the common intereſt of the ſociety. Reflecting on his own exiſtence as poſitive and naturally independent, he may conceive what he owes to the common cauſe, to be a free and gratuitous contribution, the want of which will be leſs hurtful to others, than the diſcharge of it will be burthenſome to himſelf; and, regarding the moral perſon of the ſtate as an imaginary being, becauſe it is not a man, he may be deſirous of enjoying all the privileges of a citizen, without fulfilling his engagement as a ſubject;

ſubject; an injuſtice, that, in its progreſs, muſt neceſſarily be the ruin of the body politic.

To the end, therefore, that the ſocial compact ſhould not prove an empty form, it tacitly includes this engagement, which only can enforce the reſt, *viz.* that whoſoever refuſes to pay obedience to the general will, ſhall be liable to be compelled to it by the force of the whole body. And this is in effect nothing more, than that they may be compelled to be free; for ſuch is the condition which, in uniting every citizen to the ſtate, ſecured him from all perſonal dependence; a condition, which forms the whole artifice and play of the political machine: it is this alone that renders all ſocial engagements juſt and equitable which, without it, would be abſurd, tyrannical, and ſubject to the moſt enormous abuſes.

CHAP. VIII.

Of civil ſociety in general.

THE tranſition of man from a ſtate of nature to a ſtate of ſociety is productive of a very remarkable change in his being, by ſubſtituting juſtice inſtead of inſtinct, as the rule of his conduct, and attaching that morality to his actions, of which they were before deſtitute. It is in immediate conſequence of this change, when

the voice of duty ſucceeds to phyſical impulſe and the law of appetite, that man, who hitherto regarded only his own gratification, finds himſelf obliged to act on other principles, and to conſult his reaſon, before he follows the dictates of his paſſions. Although, by entering into a ſtate of ſociety, he is deprived alſo of many advantages which depend on that of nature, he gains by it others ſo very conſiderable, his faculties exert and expand themſelves, his ideas are enlarged, his ſentiments ennobled, and his whole ſoul is elevated to ſo great a degree, that, if the abuſes of this new ſtate do not degrade him below the former, he ought inceſſantly to bleſs that happy moment in which he was reſcued from it, and converted from a ſtupid and ignorant animal into an intelligent and wiſe Being.

To ſtate the balance of what is loſt and gained by this change, we ſhall reduce it to comparative terms. By entering into the ſocial compact, man gives up his natural liberty, or unlimited right to every thing which he is deſirous of, and can attain. In return for this, he gains ſocial liberty, and an excluſive property in all thoſe things of which he is poſſeſſed. To avoid any miſtake, however, in the nature of theſe compenſations, it is neceſſary to make a juſt diſtinction between natural liberty, which is limited

by nothing but the inabilities of the individual, and ſocial liberty, which is limited by the general will of the community; and alſo, between that poſſeſſion, which is only effected by force, or follows the right of prior occupancy, and that property, which is founded only on a poſitive title.

To the preceding alſo may be added, as the acquiſition of a ſocial ſtate, moral liberty, which only renders a man truly maſter of himſelf: for to be under the direction of appetite alone is to be in a ſtate of ſlavery, while to pay obedience only to thoſe laws which we preſcribe to ourſelves, is liberty. But I have ſaid too much already on this ſubject, the philoſophical meaning of the word Liberty being, in this place, out of the queſtion.

CHAP. IX.

Of real demeſnes.

EAch member of the community, in becoming ſuch, devotes himſelf to the public from that moment, in ſuch a ſtate as he then is, with all his power and abilities, of which abilities his poſſeſſions make a part. Not that in conſequence of this act the poſſeſſion changes its nature, by changing hands, and becomes actual

property in thoſe of the ſovereignty; but as the power of the community is incomparably greater than that of an individual, the public poſſeſſion is in fact more fixed and irrevocable, without being more lawful, at leaſt with regard to foreigners. For every ſtate is, with reſpect to its members, maſter of all their poſſeſſions, by virtue of the ſocial compact, which, in a ſtate, ſerves as the baſis of all other rights; but, with regard to other powers or ſtates, it is maſter of them only, by the right of prior occupancy, which it derives from individuals.

The right of prior occupancy, although more real than that of the ſtrongeſt, becomes not an equitable right, till after the eſtabliſhment of property. Every man hath naturally a right to every thing which is neceſſary for his ſubſiſtence; but the poſitive act by which he is made the proprietor of a certain poſſeſſion excludes him from the property of any other. His portion being aſſigned him, he ought to confine himſelf to that, and hath no longer any right to a community of poſſeſſion. Hence it is that the right of prior occupancy, though but of little force in a ſtate of nature, is ſo reſpectable in that of ſociety. The point to which we are chiefly directed in the conſideration of this right, is rather

ther what belongs to another, than what does not belong to us.

To define the right of prior occupancy in general terms, it is founded on the following conditions. It is requiſite, in the firſt place, that the lands in queſtion ſhould be unoccupied; ſecondly, that no greater quantity of it ſhould be occupied than is neceſſary for the ſubſiſtence of the occupiers; and, in the third place, that poſſeſſion ſhould be taken of it, not by a vain ceremony, but by actual cultivation, the only mark of property, which, in defect of juridical titles, ſhould be at all reſpected.

To allow the firſt occupier a right to as much territory as he may cultivate, and is neceſſary to his ſubſiſtence, is certainly carrying the matter as far as is reaſonable. Otherwiſe we know not how to ſet bounds to this right. Is it ſufficient for a man to ſet foot on an uninhabited territory, to pretend immediately an excluſive right to it? Is it ſufficient for him to have power enough at one time to drive others from the ſpot, to deprive them for ever afterwards of the right of returning to it? How can a man, or even a whole people, poſſeſs themſelves of an immenſe territory, and exclude from it the reſt of mankind, without

being guilty of an illegal uſurpation; ſince, by ſo doing, they deprive the reſt of mankind of an habitation, and thoſe means of ſubſiſtence, which nature hath given in common to them all? When Nunez Balbao ſtood on the ſea-ſhore, and, in the name of the crown of Caſtile, took poſſeſſion of the Pacific Ocean, and of all South-America, was this ſufficient to diſpoſſeſs all the inhabitants of that vaſt country, and exclude all the other ſovereigns in the world? On ſuch a ſuppoſition, the like idle ceremonies might have been ridiculouſly multiplied, and his Catholic Majeſty would have had no more to do, than to have taken poſſeſſion in his cloſet of all the countries in the world, and to have afterwards only deducted from his empire ſuch as were before poſſeſſed by other princes.

It is eaſy to conceive, how the united and contiguous eſtates of individuals become the territory of the public, and in what manner the right of ſovereignty, extending itſelf from the ſubjects to the lands they occupy, becomes at once both real and perſonal; a circumſtance which lays the poſſeſſors under a ſtate of the greateſt dependence, and makes even their own abilities a ſecurity for their fidelity. This is an

advantage

advantage which does not appear to have been duly attended to, by ſovereigns among the ancients, who, by ſtiling themſelves only kings of the Perſians, the Scythians, the Macedonians, ſeemed to look on themſelves only as chief of men, rather than as maſters of a country. Modern princes more artfully ſtile themſelves the kings of England, France, Spain, &c. and thus, by claiming the territory itſelf, are ſecure of the inhabitants.

What is very ſingular in this alienation is, that the community, in accepting the poſſeſſions of individuals, is ſo far from deſpoiling them thereof, that, on the contrary, it only confirms them in ſuch poſſeſſions, by converting an uſurpation into an actual right, and a bare poſſeſſion into a real property. The poſſeſſors alſo being conſidered as the depoſitaries of the public wealth, while their rights are reſpected by all the members of the ſtate, and maintained by all its force againſt any foreign power, they acquire, if I may ſo ſay, by a ceſſion advantageous to the public, and ſtill more ſo to themſelves, every thing they ceded by it: a paradox which is eaſily explained by the diſtinction to be made between the rights which the ſovereign and the

proprietor have in the ſame fund, as will be ſeen hereafter.

It may alſo happen, that men may form themſelves into a ſociety, before they have any poſſeſſions; and that, acquiring a territory ſufficient for all, they may poſſeſs it in common, or divide it among them, either equally, or in ſuch different proportions as may be determined by the ſovereign. Now, in whatſoever manner ſuch acquiſition may be made, the right which each individual has to his own eſtate, muſt be always ſubordinate to the right which the community hath over the poſſeſſions of all; for, without this, there would be nothing binding in the ſocial tie, nor any real force in the exerciſe of the ſupreme power.

I ſhall end this book, with a remark, that ought to ſerve as the baſis of the whole ſocial ſyſtem: and this is, that, inſtead of annihilating the natural equality among mankind, the fundamental compact ſubſtitutes, on the contrary, a moral and legal equality, to make up for that natural and phyſical difference which prevails among individuals, who, though unequal in perſonal

ſonal ſtrength and mental abilities, become thus all equal by convention and right *.

* This equality, indeed, is under ſome governments merely apparent and deluſive, ſerving only to keep the poor ſtill in miſery, and favour the oppreſſion of the rich. And, in fact, the laws are always uſeful to perſons of fortune, and hurtful to thoſe who are deſtitute: whence it follows, that a ſtate of ſociety is advantageous to mankind in general, only when they all poſſeſs ſomething, and none of them have any thing too much.

The END of the FIRST BOOK.

BOOK II.

CHAP. I.

That the ſovereignty is unalienable.

THE firſt and moſt important conſequence to be drawn from the principles already eſtabliſhed, is, that the general *will* only can direct the forces of the ſtate agreeable to the end of its original inſtitution, which is the common good; for, though the oppoſition of private intereſts might make the eſtabliſhment of ſocieties neceſſary, it muſt have been through the coalition of thoſe intereſts, that ſuch eſtabliſhment became poſſible. The bonds of ſociety muſt have been formed out of ſomething common to thoſe ſeveral intereſts, for, if there had been no point to which they could have been reconciled, no ſociety could poſſibly have ſubſiſted. Now it is only on theſe points that the government of ſociety ſhould be founded.

I ſay, therefore, that the ſovereignty, being only the exertion of the general will, cannot be alienated, and that the ſovereign, which is only a collective being, cannot be repreſented but by itſelf:

itſelf: the power of a people may be tranſmitted or delegated, but not their will.

It may not be abſolutely impoſſible, that the will of an individual ſhould agree, in ſome particular point, with the general will of a whole people; it is, however, impoſſible, that ſuch agreement ſhould be conſtant and durable, for the will of particulars always tends to make diſtinctions of preference, and the general will to a perfect equality. It is further ſtill more impoſſible, ſuppoſing ſuch agreement might always ſubſiſt, to have any ſecurity that it would do ſo, as it could never be the effect of art, but of chance. The ſovereign may ſay, My will is now agreeable to the will of ſuch an individual, or at leaſt to what he pretends to be his will; but it cannot pretend to ſay, I agree to whatever may be the will of ſuch individual to-morrow; as it is abſurd for the will to lay itſelf under any reſtraint regarding the future, and as it is impoſſible for the will to conſent to any thing contrary to the intereſt of the being whoſe will it is. Should a people therefore enter into the engagement of ſimply promiſing obedience, they would loſe their quality, as a people, and be virtually diſſolved by that very act. The moment there exiſts a maſter, there can be no longer a ſovereign, the body politic being thereby deſtroyed.

I would

I would not be underſtood to mean, that the orders of a chief may not paſs for the dictates of the general will, when the ſovereign, though at liberty to contradict, does not oppoſe it. In ſuch a caſe, it is to be preſumed, from the univerſal ſilence of the people, that they give their conſent. This will be farther explained in the end.

CHAP. II.

That the ſovereignty is indiviſible.

FOR the ſame reaſon that the ſovereignty is unalienable, it is alſo indiviſible; for the will is general *, or it is not; it is that of the body of the people, or only that of a part. In the firſt caſe, this will, when declared, is an act of ſovereignty, and becomes a law: in the ſecond, it is only a particular will, or an act of the magiſtracy, and is at moſt a decree.

But our politicians, incapable of dividing the ſovereignty in its firſt principles, divide it in its

* In order that this will ſhould be general, it is not always neceſſary it ſhould be unanimous: it is neceſſary, however, that every individual ſhould be permitted to vote; every formal excluſion infringing the generality.

object;

object; they distinguish it into power and will; into a legislative and executive power; into the prerogatives of taxation, of executing justice, and of making war; into departments of domestic and foreign administration. Sometimes they blend all these confusedly together, and, at others, consider them as distinct and separate, making out the sovereign to be a fantastic compound, just as if they should compose a man out of several bodies, of which one should have only eyes, another arms, a third feet, and nothing more. It is said of the jugglers in Japan, that they will take a child, and cut it into pieces in the presence of the spectators, then, throwing up its dismembered limbs one after another into the air, they are united, and the child descends alive, and well as before. The legerdemain of our modern politicians greatly resembles this trick of the Japonese; for they, after having dismembered the body politic with equal dexterity, bring all its parts together by *hocus pocus* again, and represent it the same as before.

This error arises from their not having formed precise ideas of the sovereign authority, and from their mistaking the simple emanations of this authority, for parts of its essence. Thus, for instance, the acts of declaring war and making peace are usually regarded as acts of sovereignty,

reignty, which they are not; for neither of theſe acts are laws, but conſiſt only of the application of the law. Each is a particular act, determinate only of the meaning of the law in ſuch caſe, as will be ſeen more clearly, when the idea attached to the word *law* ſhall be preciſely ſettled.

By tracing, in like manner, their other diviſions, we ſhall find, that we are conſtantly miſtaken, whenever we think the ſovereignty divided; and that the prerogatives, which are ſuppoſed to be parts of the ſovereignty, are all ſubordinate to it, and always ſuppoſe the predetermination of a ſuperior will, which thoſe prerogatives only ſerve to put in execution.

It is impoſſible to ſay, in how much obſcurity this want of preciſion hath involved the reaſonings of authors, on the ſubject of political law, when they came to examine into the reſpective rights of kings and people, on the principles they had eſtabliſhed. By turning to the third and fourth chapters of the firſt book of Grotius, the reader may ſee, how that learned author and his tranſlator, Barbeyrac, bewildered and entangled themſelves in their own ſophiſms, through fear of ſaying too much or too little for their purpoſe, and of making thoſe intereſts claſh, which

which it was their buſineſs to reconcile. Grotius, being diſſatisfied with his own countrymen, a refugee in France, and willing to pay his court to Lewis XIII. to whom his book is dedicated, ſpared no art nor pains to ſtrip the people of their privileges, and to inveſt kings with prerogative. Barbeyrac alſo wrote with a ſimilar view, dedicating his tranſlation to George I. of England. But, unluckily, the expulſion of James II. which he calls an abdication, obliged him to be much on the reſerve, to turn and wind about, as he ſaw occaſion, in order not to make William III. an uſurper. Had theſe two writers adopted true principles, all theſe difficulties would have vaniſhed, and they would have written conſiſtently; in ſuch a caſe, however, they could only, in ſober ſadneſs, have told the truth, and would have paid their court only to the people. Now, to tell the truth, is not the way to make a fortune; nor are ambaſſadors appointed, or places and penſions given away by the populace.

CHAP.

CHAP. III.

Whether the general Will can be in the wrong.

IT follows, from what has been ſaid, that the general Will is always in the right, and conſtantly tends to the public good; it does not follow, however, that the deliberations of the people will always be attended with the ſame rectitude. We are ever deſirous of our own good, but we do not always diſtinguiſh in what it conſiſts. A whole people never can be corrupted, but they may be often miſtaken, and it is in ſuch a caſe only that they appear to ſeek their own diſadvantage.

There is often a conſiderable difference between the will of all the members and the general will of the whole body; the latter regards only the common intereſt, the other reſpects the private intereſt of individuals, and is the aggregated ſum of their particular wills; but, if we take from this ſum thoſe contradictory wills that mutually deſtroy each other*, the ſum of the remaining differences is the general will.

If

* *Each intereſt*, ſays the Marquis d'A. *has different principles. A coalition between two particular intereſts may be formed, out of oppoſition to that of a third.* He might

If a people, ſufficiently informed of the nature of the ſubject under their conſideration, ſhould deliberate, without having any communication with each other, the general will would always reſult from the greater number of their little differences, and their deliberation would be ſuch as it ought to be. But when they enter into cabals, and form partial aſſociations, at the expence of the general one, the will of each of theſe aſſociations becomes general, with regard to the particular members of each, and, in itſelf, particular, with regard to the ſtate. In ſuch a caſe, therefore, it may be ſaid, there is no longer as many voters as individuals, but only as many voices as there are aſſociations. The differences then become leſs numerous, and give a leſs general reſult. Again, ſhould one of theſe partial aſſociations be ſo great, as to influence all the reſt, the reſult would no longer be the ſum of many little differences, but that of one great one; in which caſe, a general will would no longer ſubſiſt.

might have added, that a coalition of all is formed out of oppoſition to the intereſt of each. Were there no different and claſhing intereſts, that of the whole would be hardly diſtinguiſhable, as it would meet with no obſtacle. All things would go regularly on of their own accord, and civil policy would ceaſe to be an art.

It

It is requiſite, therefore, in order that each reſolution may be dictated by the general will, that no ſuch partial ſocieties ſhould be formed in a ſtate, and that each citizen ſhould think for himſelf *. Such was the ſublime inſtitution of the great Lycurgus. But, if ſuch partial ſocieties muſt and will exiſt, it is then expedient to multiply their number, and prevent their inequality, as was done by Solon, Numa, and Servius. Theſe are the only ſalutary precautions that can be taken, in order that the general will may be properly informed, and the people not be miſtaken as to their true intereſt.

CHAP. IV.

Of the limits of the ſovereign power.

IF the ſtate, or the city, be a mere moral perſon, whoſe life depends on the union of its members, and, if the moſt important of its concerns be that of its own preſervation, it

* Vera coſa é, ſays Machiavel, che alcuni diviſioni nuocono alle republiche, e alcune giovano: quelle nuocono che ſono dalle ſette e da partigiani accompagnate: quelle giovano che ſenza ſette, ſenza partigiani ſi mantengono. Non potendo adunque provedere un fondatore d'una republica che non ſiano nimicizie in quella, hà da proveder almeno che non viſiano ſette. Hiſt. Fiorent. l. vii.

ſhould

ſhould certainly be poſſeſſed of an univerſal compulſive force, to move and diſpoſe each part in ſuch a manner as is moſt conducive to the good of all. As nature hath given every man an abſolute power over his limbs, to move and direct them at pleaſure, ſo the ſocial compact gives to the body politic an abſolute power over all its members, and it is this power which, directed by the general will, bears the name, as I have already obſerved, of the ſovereignty.

But, beſides this public perſon, we are to conſider farther the private perſons of which it is compoſed, and whoſe life and liberty are naturally independent of it. We come now, therefore, to make a proper diſtinction between the reſpective privileges of the citizens and the ſovereign *, as well as between the obligations the former lie under as ſubjects, and the natural rights they claim as men.

It is agreed, that what an individual alienates of his power, his poſſeſſion, or his liberty, by the ſocial compact, is only ſuch parts of them whoſe uſe is of importance to the community;

* Be not in haſte, attentive reader, to accuſe me here of contradiction. I cannot avoid the ſeeming contradiction in terms, from the native poverty of the language. But have a little patience.

but

but it muſt be confeſſed alſo, that the ſovereign is the only proper judge of this importance.

A citizen is bound to perform all the ſervices he can poſſibly be of to a ſtate, whenever the ſovereign demands them; but the ſovereign, on his part, cannot require any thing of the ſubject that is uſeleſs to the community; he cannot even be deſirous of ſo doing; for, under the laws of reaſon, nothing can be produced without a cauſe, any more than under the law of nature.

The engagements, in which we are bound to the body of ſociety, are obligatory, only becauſe they are mutual; and their nature is ſuch that we cannot, in diſcharging them, labour for the good of others, without, at the ſame time, labouring for that of ourſelves. Wherefore, indeed, is it, that the general will is always in the right, and that all conſtantly deſire the good of each, unleſs it be, becauſe there is no one that does not appropriate the term *each* to himſelf, and who does not think of his own intereſt, in voting for that of all? This ſerves to prove alſo, that an equality of privilege, and the notion of juſtice it produces, are derived from that preference which each naturally gives himſelf, and of courſe from the very nature of man; that the

general will, in order to be truly ſuch, ought to be ſo in its effect, as well as in its eſſence; that it ought to flow from all, in order to be applicable to all; and that it muſt loſe its natural rectitude, when it tends to any individual and determinate object; becauſe judging, in ſuch a caſe, of what is foreign to ourſelves, we have no real principle of equity for our guide.

In fact, no ſooner do we come to treat of a particular fact or privilege, on a point which has not been ſettled by a general and prior convention, than the affair becomes litigious. It is a proceſs, in which the particulars intereſted are one party, and the public the other; but in which I ſee no law to decide, nor judge to determine. It would be abſurd, therefore, in ſuch a caſe, to think of referring it to any expreſs deciſion of the general will, which could be no other than the deciſion of one of the very parties; and therefore muſt be, with regard to the other, foreign and partial, leaning to injuſtice, and ſubject to error. In the ſame manner, alſo, that a partial and particular will cannot repreſent the general will, ſo the latter, in its turn, changes its nature, when employed on a particular object, and cannot, in its general capacity, pronounce concerning any particular man or fact. Thus, when the people of Athens, for inſtance, took

took upon them to appoint or caſhier their chiefs, to decree honours to one, and inflict pains and penalties on another, and thus, by numerous decrees, exerciſed indiſcriminately all the acts of government, they had then, properly ſpeaking, no general will at all: the Athenian people, in this caſe, did not act in the capacity of ſovereign, but in that of magiſtrate. This may appear contradictory to the common notions of things, but I muſt be allowed time to explain mine.

We may learn hence, that the general will conſiſts leſs in the number of votes, than in the common intereſt that unites them; for, in this inſtitution, every one ſubjects himſelf neceſſarily to thoſe conditions which he impoſes on others: hence the admirable conformity between intereſt and juſtice, which ſtamps on public declarations that characteriſtic of equity, which we ſee vaniſh in the diſcuſſion of particular ſubjects, for want of that common intereſt which unites and makes the criterion of the judge the ſame with that of the party.

In what manner ſoever we recur to the firſt principle, we always arrive at the ſame concluſion, *viz.* that the ſocial compact, eſtabliſhes ſuch an equality among the citizens, that all lay themſelves

themſelves under the ſame obligations, and ought all to enjoy the ſame privileges. Thus, from the very nature of this compact, every act of ſovereignty, that is to ſay, every authentic act of the general will, is equally obligatory on, or favourable to, all the citizens, without diſtinction; inſo much that the ſovereign knows only the whole body of the nation, but diſtinguiſhes none of the individuals who compoſe it. What then is properly an act of ſovereignty? It is not an agreement made between a ſuperior and an inferior, but a convention between a whole body with each of its members, which convention is a lawful one, becauſe founded on the ſocial contract; it is equitable, becauſe it is common to all; it is uſeful, becauſe it can have no other object than the general good; and it is ſolid and durable, becauſe ſecured by the public ſtrength and the ſupreme power.

When the ſubmiſſion of ſubjects is owing only to ſuch conventions, they pay in fact obedience to none but their own will, and to aſk how far the reſpective privileges of the ſovereign and citizens extend, is to aſk merely how far the latter may enter into engagements with themſelves, *viz.* each individual with all collectively, and all collectively with each individual.

Hence we ſee, that the ſovereign power, abſolute, inviolable, and ſacred as it is, neither does nor can ſurpaſs the bounds of ſuch general conventions, and that every man hath a right to diſpoſe, as he pleaſes, of that liberty and property which the terms of ſuch conventions have left to his own diſpoſal; ſo that the ſovereign hath not any right to lay a greater burthen on one ſubject than on another, becauſe, in ſuch a caſe, it becomes a particular affair, in which the ſovereign hath no power to act.

Theſe diſtinctions being once admitted, it is ſo far from being true, that there is any real renunciation on the part of individuals, when they enter into the ſocial compact, that their ſituation becomes, by means of that very compact, much better than before; as, inſtead of making any alienation, they only make an advantageous exchange of an uncertain and precarious mode of ſubſiſtence, for a more ſettled and determinate one; they exchange their natural independence, for ſocial liberty, the power of injuring others for that of ſecuring themſelves from injury; and their own natural ſtrength, which might be overcome by that of others, for a civil power which the ſocial union renders invincible. Their very lives, which they have by theſe means de-

devoted to the ſtate, are continually protected; and even when they are obliged to expoſe themſelves to death, in its defence, what do they more than render back to ſociety what they have before received of it? What do they more, in riſquing their lives for their country, than they would have been obliged to do more frequently, and with much greater danger in a ſtate of nature; when, ſubject to inevitable outrages, they would have been obliged to defend their means of ſubſiſtance at the hazard of their lives? That every one lies under the obligation of fighting in defence of his country, is true; but then he is relieved by the laws from the neceſſity of fighting to defend himſelf. And are not men gainers, on the whole, by running part of thoſe riſks, for their common ſecurity, which they muſt ſeverally run for themſelves, were they deprived of that ſecurity?

CHAP. V.

On capital puniſhments.

IT hath been aſked, how individuals, having no right to diſpoſe of their own lives, can tranſmit that right to the ſovereign? The difficulty of reſolving this queſtion, ariſes only from

its being badly expreſſed. Every man hath an undoubted right to hazard his life for its preſervation. Was a man ever charged with ſuicide, for throwing himſelf from the top of an houſe in flames, in order to avoid being burnt? Was it ever imputed as a crime to a man, who might be caſt away at ſea, that he knew the danger of the voyage when he embarked?

The end of the ſocial compact, is the preſervation of the contracting parties. Such, therefore, as would reap the benefit of the end, muſt aſſent to the means, which are inſeparable from ſome dangers and loſſes. He that would preſerve his life at the expence of others, ought to riſk it for their ſafety when it is neceſſary. Now, the citizen is no longer a judge of the danger to which the law requires him to be expoſed: but when the prince declares that the good of the ſtate requires his life, he ought to reſign it; ſince it is only on thoſe conditions he hath hitherto lived in ſecurity, and his life is not ſolely the gift of nature, but a conditional gift of the ſtate.

The puniſhment of death inflicted on malefactors may be conſidered alſo in the ſame point of view: it is to prevent our falling by the hands

hands of an aſſaſſin, that we conſent to die, on becoming ſuch ourſelves. We are ſo far from giving away our lives, by this treaty, that we enter into it only for our preſervation: as it is not to be preſumed that any one of the contracting parties formed therein a premeditated deſign to get himſelf hanged.

Add to this, that every malefactor, by breaking the laws of his country, becomes a rebel and traitor; ceaſing, from that time, to be a member of the community, and even declaring war againſt it. In this caſe, the preſervation of the ſtate is incompatible with his; one of the two muſt periſh: and thus when a criminal is executed, he doth not ſuffer in the quality of a citizen, but in that of an enemy. His trial and ſentence are the evidence and declaration of his having broken the ſocial compact, and that, of conſequence, he is no longer a member of the ſtate. Now, as he had profeſſed himſelf ſuch, at leaſt by his reſidence, it is right that he ſhould be ſeparated from the ſtate, either by baniſhment as a violator of the ſocial compact, or by death as a public enemy; for ſuch an enemy is not a moral perſonage, he is a mere man, and it is in this caſe only that the right of war takes place of killing an enemy.

But, it may be ſaid, the condemnation of a criminal is a particular act. It is ſo, and for that reaſon it does not belong to the ſovereign: it is an act, for doing which the ſupreme power may confer the authority, though it cannot exerciſe ſuch authority itſelf. My ideas on this ſubject are conſiſtent, though I cannot explain them all at once.

It is to be obſerved, however, that the frequency of executions is always a ſign of the weakneſs or indolence of government. There is no malefactor who might not be made good for ſomething: Nor ought any perſon to be put to death, even by way of example, unleſs ſuch as could not be preſerved without endangering the community.

With regard to the prerogative of granting pardons to criminals, condemned by the laws of their country, and ſentenced by the judges, it belongs only to that power which is ſuperior both to the judges and the laws, viz. the ſovereign authority. Not that it is very clear that even the ſupreme power is veſted with ſuch a right, or that the circumſtances in which it might be exerted are frequent or determinate. In a well-governed ſtate there are but few executions;

tions; not becauſe there are many pardoned, but becauſe there are few criminals: Whereas when a ſtate is on the decline, the multiplicity of crimes occaſions their impunity. Under the Roman republic, neither the Senate nor the Conſuls ever attempted to grant pardons; even the people never did this, although they ſometimes recalled their own ſentence. The frequency of pardons indicates that in a ſhort time crimes will not ſtand in need of them, and every one may ſee the conſequence of ſuch conduct. But my reluctant heart reſtrains my pen; let us leave the diſcuſſion of theſe queſtions to the juſt man who hath never been criminal, and who never ſtood in need of pardon.

CHAP. VI.

On the law.

HAVING given exiſtence and life to the body politic, by a ſocial compact, we come now to give it action and will, by a legiſlature. For the primitive act, by which ſuch body is formed, determines nothing as yet with reſpect to the means of its preſervation.

Whatever is right and conformable to order, is ſuch from the nature of things, independent

of all human conventions. All juſtice comes from God, who is the fountain of it; but could we receive it immediately from ſo ſublime a ſource, we ſhould ſtand in no need of government or laws. There is indeed an univerſal juſtice ſpringing from reaſon alone; but, in order to admit this to take place among mankind, it ſhould be reciprocal. To conſider things as they appear, we find the maxims of juſtice among mankind, to be vain and fruitleſs, for want of a natural ſupport; they tend only to the advantage of the wicked, and the diſadvantage of the juſt, while the latter obſerves them in his behavour to others, but no body regards them in their conduct to him. Laws and conventions, therefore, are neceſſary in order to unite duties with privileges, and confine juſtice to its proper objects. In a ſtate of nature, where every thing is common, I owe nothing to thoſe I have promiſed nothing; I acknowlege nothing to be the property of another, but what is uſeleſs to myſelf. In a ſtate of ſociety the caſe is different, where the rights of each are fixed by law.

We come at length, therefore, to conſider what is law. So long as we content ourſelves with the metaphyſical idea annexed to this term, we muſt talk unintelligibly; and though we

ſhould

ſhould come to a definition of natural law, we ſhould not know thence any thing more of political law. I have already ſaid there can be no general will relative to a particular object. In fact every particular object muſt be within or without the ſtate. If without, a will that is foreign, cannot with regard to it be general; and if the object be within the ſtate, it muſt make a part of it: in which caſe there ariſes between the whole and the part, a relation that conſtitutes two ſeparate beings, one of which is the part, and the whole wanting ſuch part, is the other. But the whole wanting ſuch part, is not the whole, and ſo long as that relation ſubſiſts, there is no whole, but only two unequal parts: whence it follows that the will of the one is no longer general with regard to that of the other.

But when a whole people decree concerning a whole people, they conſider only their whole body; and, if it then forms any relation, it muſt be between the entire object conſidered in one point of view, and the entire object conſidered in another point of view, without any diviſion of the whole. In this caſe, the matter of the decree is general as the will that decrees. Such is the act which I call a law.

When I ſay that the object of the laws is always general, I mean that the law conſiders the ſubjects in a collective body, and their actions abſtractedly, but never concerns itſelf with individual perſons, nor particular actions. Thus the law may decree certain privileges, but it cannot beſtow them on particular perſons: the law may conſtitute ſeveral claſſes of citizens, and aſſign even the qualities which may entitle them to rank in theſe claſſes; but it cannot nominate ſuch or ſuch perſons to be admitted therein: It may eſtabliſh a legal government, and appoint an hereditary ſucceſſion, but it cannot make choice of a king, nor appoint the royal family; in a word, every function that relates to an individual object, doth not belong to the legiſlative power.

Taking things in this light, it is immediately ſeen how abſurd it is to aſk in whoſe power it is to make laws? as they are acts of the general will; or whether the prince be above the laws? as he is but a member of the ſtate. Hence alſo, it is plain, the law cannot be unjuſt, as nothing can be unjuſt to itſelf; as alſo what it is to be free, and at the ſame time ſubject to the laws, as the laws are only the records of our own will.

It is hence farther evident, the law re-uniting the univerſality of the will to that of its object that whatever an individual, of what rank ſoever, may decree of his own head, cannot be a law: indeed, whatever the ſupreme power itſelf may ordain concerning a particular object is not a law, but a ſimple decree; it is not an act of the ſovereignty, but of the magiſtracy.

I call every ſtate, therefore, which is governed by laws, a Republic, whatever be the form of its adminiſtration; for in ſuch a caſe only, it is the public intereſt that governs, and whatever is public is ſomething. Thus every lawful government is republican *. I ſhall explain hereafter what I mean by a government.

The laws are, ſtrictly ſpeaking, only the conditions of civil ſociety. The people who ſub-

* I do not here mean, by the term republican, either an ariſtocracy or democracy; but in general every government influenced by the general will of the people, which is the law. To make a government legal, it is not neceſſary that it ſhould be confounded with the ſovereign, but that it ſhould be the miniſter; ſo that in this ſenſe even a monarchy is a republic. This will be more fully explained in the ſubſequent book.

mit to them ſhould therefore be the authors of them; as it certainly belongs to the aſſociating parties, to ſettle the conditions on which they agree to form a ſociety. But how are they to be ſettled? is it to be done by common conſent or by a ſudden inſpiration? hath the body politic an organ by which to make known its will? who ſhall furniſh it with the neceſſary preſcience to form its determinations, and to publiſh them before-hand, or how ſhall it divulge them in the time of need? how ſhall an ignorant multitude, who often know not what they chuſe, becauſe they ſeldom know what is for their good, execute an enterprize ſo great and ſo difficult as that of a ſyſtem of legiſlature? A people muſt neceſſarily be deſirous of their own good, but they do not always ſee in what it conſiſts. The general will is always in the right, but the judgment by which it is directed is not always ſufficiently informed. It is neceſſary it ſhould ſee objects ſuch as they are, and ſometimes ſuch as they ought to appear; it ſhould be directed to the ſalutary end it would purſue, ſhould be ſecured from the ſeduction of private intereſts, ſhould have an inſight into the circumſtances of time and place; and ſhould be enabled to ſet the preſent and perceptible advantages of things, againſt the diſtant and concealed evil

that

that may attend them. Individuals often ſee the good which they reject; the public is deſirous of that which it is incapable to ſee. Both ſtand equally in need of a guide: the former ſhould be compelled to conform their deſires to reaſon, and the latter ſhould be inſtructed in the diſcovery of what it deſires. It is thus from the proper information of the public, that there reſults an union of the underſtanding and the will in the body of ſociety, and thence the exact concurrence of its parts, and in the end the greateſt force of the whole. Hence ariſes the neceſſity of a legiſlator.

CHAP. VII.

Of the genius and character of a legiſlator.

TO inveſtigate thoſe conditions of ſociety which may beſt anſwer the purpoſes of nations, would require the abilities of ſome ſuperior intelligence, who ſhould be witneſs to all the paſſions of men, but be ſubject itſelf to none; who ſhould have no connection with human nature, but ſhould have a perfect knowlege of it; a being, in ſhort, whoſe happineſs ſhould be independent of us, and who would

would nevertheleſs employ itſelf about ours *. It is the province of Gods indeed to make laws for men.

The ſame argument which Caligula made uſe of, in point of fact, Plato himſelf employs, in point of right, when he goes about to define the civil or royal perſonage, in treating of a king. But if it be certain that a great prince is a perſonage rarely to be met with, what is that of a great legiſlator? The former hath nothing more to do than to follow the model deſigned by the latter. The one is the mechanical genius who invents the machine, the other only the workman who puts it into execution. In the commencement of ſocieties, ſays Monteſquieu, it is the principal perſons in republics which form their inſtitution; and afterwards it is the inſtitution which forms the chiefs of republics.

He who ſhould undertake to form a body politic, ought to perceive himſelf capable of working a total change in human nature; of tranſforming every individual, of himſelf a ſolitary

* Nations become famous only as their legiſlature declines. The inſtitution of Lycurgus made the Spartans happy for ages before they were famous in Greece.

and

and independent being, into a part of a greater whole, from which ſuch individual is to receive in one ſenſe his life and exiſtence; he muſt be capable of altering the conſtitution of the man, in order to ſtrengthen it; and to ſubſtitute a partial and moral exiſtence in the room of that phyſical and independent exiſtence which we receive from the hands of Nature. In a word, he muſt be able to deprive man of his natural abilities, in order to inveſt him with foreign powers which he cannot make uſe of without the aſſiſtance of others. The more ſuch natural force is annihilated and extinct, the greater and more durable are thoſe which are acquired, and the more perfect and ſolid is the ſocial inſtitution. So that if each citizen be nothing, and can effect nothing but by the exiſtence and aſſiſtance of all the reſt, and that the force acquired by the whole body be equal, or ſuperior, to the ſum of the natural forces of all its individuals, the legiſlature may be ſaid to have reached the higheſt pitch of perfection it is capable to attain.

The legiſlator is in every reſpect a moſt extraordinary perſon in a ſtate. If he be undoubtedly ſo, on account of his genius, he is not leſs ſo from his function. Yet this is not that of the ma-

magiſtrate or the ſovereign. That function, which conſtitutes the republic, doth not enter into its conſtitution. It is, on the contrary, a particular and ſuperior employment that hath nothing in common with human government: for if he who hath the command over the citizens, ſhould not be entruſted with the command over the laws, he who hath the power over the laws, ought as little to have the power over the citizens: for were it otherwiſe, his laws, being made inſtrumental to his paſſions, would often ſerve to perpetuate his injuſtice, and he could never prevent particular views from altering his ſyſtem.

When Lycurgus gave laws to his country, he began by abdicating the throne. It was the cuſtom of moſt of the Grecian cities to entruſt their eſtabliſhment with ſtrangers; a cuſtom that hath been often imitated by the modern republics of Italy: that of Geneva did the ſame, and found its account in it*. In the moſt

* Thoſe who conſider Calvin only as a theologiſt, know but little of his comprehenſive genius. The digeſt of our laws, in which he had a conſiderable ſhare, do him as much honour as his religious ſyſtem; and what revolution ſoever time may effect in our public worſhip, the memory of this great man will continue to be revered ſo long as patriotiſm and a ſenſe of liberty ſurvive among us.

flouriſh-

flouriſhing age of Rome, that city ſuffered under flagitious acts of tyranny, and beheld itſelf on the brink of ruin, for having entruſted the ſovereign power and the legiſlative authority in the ſame hands.

Even the decemviri themſelves, however, never aſſumed the right of paſſing any law merely on their own authority. *Nothing that we propoſe*, ſaid they to the people, *can paſs into a law without your conſent. Be yourſelves, ye Romans, the authors of thoſe laws on which your happineſs depends.*

The legiſlator, therefore, who digeſts the laws, ſhould have no right to make them paſs for ſuch; nor indeed can the people, though inclined to do it, deprive themſelves of that incommunicable right: becauſe, according to the fundamental compact, it is the general will only that is obligatory on individuals, and it is impoſſible to be aſſured that any particular will is conformable to the general, till it be ſubmitted to on the free ſuffrage of the people. I have ſaid this before, but perhaps have not unneceſſarily repeated it.

Thus

Thus in the buſineſs of a legiſlature, we find two things apparently incompatible; a deſign ſuperior to human abilities, carried into execution by an authority which is nothing.

Another difficulty which merits attention is, that wiſe men, in talking their own language to the vulgar, ſpeak unintelligibly. And yet there are many kinds of ideas which it is impoſſible to convey in the language of the people. Views too general, and objects too diſtant, are equally beyond their comprehenſion; the individual, reliſhing no other plan of government than that which is conducive to his private intereſt, is with difficulty brought to ſee thoſe advantages which are to be deduced from the continual checks he may receive from ſalutary laws. In order to give a newly-formed people a taſte for the ſound maxims of policy, and induce them to follow the fundamental rules of ſociety, it is neceſſary that the effect ſhould in a manner become the cauſe; that the ſpirit of union which ſhould be the effect of ſocial inſtitutions ſhould preſide to form that inſtitution itſelf, and that men ſhould be ſuch before the laws are made as the laws are deſigned to make them. For this reaſon therefore, the legiſlator being capable of employing neither force nor argument, he

he is of neceſſity obliged to recur to an authority of an higher order, which may compel without violence, and perſuade without conviction. Hence it is that the founders of nations have been obliged, in all ages, to recur to the intervention of celeſtial powers, and have honoured their gods with their own wiſdom, in order that the people, by ſubmitting themſelves to the laws of the ſtate in the ſame manner as to thoſe of nature, and acknowleging the ſame power in the formation of the city as in the formation of man, might bend more freely, and bear more tractably the yoke of obedience and public felicity.

Now the determinations of that ſublime reaſon, which ſoars above the comprehenſion of vulgar minds, are thoſe which the legiſlator puts into the mouths of his immortal perſonages, in order to influence thoſe by a divine authority, which could not be led by maxims of human prudence. It does not belong to every man, however, to make the gods his oracles, nor even to be believed when he pretends to be their interpreter. The comprehenſive genius of the legiſlator, is the miracle that proves the truth of his miſſion. Any man may engrave tables of ſtone, hire an oracle, pretend to a ſecret communica-

munication with ſome deity, teach a bird to whiſper in his ear, or hit upon other devices to impoſe on a people. But he who knows nothing more, though he may be lucky enough to get together an aſſembly of fools and madmen, will never lay the foundations of an Empire; the fabrick raiſed by his extravagance preſently falling and often burying him in its ruins. A tranſitory union may be formed from ſlight and futile connections; nothing but the dictates of wiſdom, however, can render it durable. The Jewiſh law, ſtill ſubſiſting, and that of the ſon of Iſmael, which for ten centuries hath governed half the world, are ſtanding proofs of the ſuperior genius of thoſe great men by whom they were dictated: and though the vanity of philoſophy, and the blind prejudice of party ſee nothing in their characters but fortunate impoſtors, the true politician admires, in their reſpective inſtitutions, that ſagacious and comprehenſive power of mind which muſt ever lay the laſting foundation of human eſtabliſhments.

It muſt not, from all this, be concluded, however, that religion and government have, in our times, as Warburton alleges, one common object; but only that in the firſt eſtabliſhment of ſocieties, the one was made inſtrumental to the other.

CHAP.

CHAP. VIII.

Of the people.

AS the architect, before he begins to raiſe an edifice, examines into the ground where he is to lay the foundation, that he may be able to judge whether it will bear the weight of the ſuperſtructure; ſo the prudent legiſlator does not begin by making a digeſt of ſalutary laws, but examines firſt whether the people for whom ſuch laws are deſigned, are capable of ſupporting them. It was for this reaſon Plato refuſed to give laws to the Arcadians and Cyrenians, knowing they were rich and luxurious, and could not admit of the introduction of equality among them. It was for this reaſon that Crete, though it boaſted good laws, was inhabited by ſuch bad men; Minos had only endeavoured to govern a people already depraved by vice. Various have been the nations that have made a diſtinguiſhed figure in the world, and yet have not been capable of being governed by good laws; and even thoſe who were capable of being ſo governed, continued ſo but a ſhort time. Nations, as well as individuals, are docile only in their infancy: they be-

become incorrigible as they grow old. When cuſtoms are once eſtabliſhed and prejudices have taken root among them, it is a dangerous and fruitleſs enterprize to attempt to reform them. A people cannot even bear to have their wounds probed, though in order to be cured; but reſemble thoſe weak and cowardly patients who ſhudder at the ſight of their phyſician. Not, but that ſometimes, as there are diſtempers which affect the brain of individuals and deprive them of the capacity of remembering what is paſt, there happen in ſtates ſuch revolutions as produce the ſame effect on a people, when the horror of the paſt ſupplies the place of oblivion, and the ſtate, inflamed and exhauſted by civil wars, riſes again, if I may ſo expreſs myſelf, out of its own aſhes, and reaſſumes the vigour of youth in forſaking the arms of death. This was the caſe with Sparta in the time of Lycurgus, and of Rome after the Tarquins; and ſuch hath been the caſe in modern times with Holland and Switzerland after the expulſion of their tyrants. But theſe events are rare; and are ſuch exceptions as have their cauſe in the particular conſtitution of the ſtate excepted. They cannot even take place twice among the ſame people: for though they may be made free when they are only barbarous and

un-

uncivilized; yet, when the reſources of ſociety are exhauſted, they cannot be renewed. In that caſe, faction may deſtroy, but revolutions cannot re-eſtabliſh their freedom; they require for ever after a maſter, and not a deliverer. Every free people, therefore, ſhould remember this maxim, that tho' nations may acquire liberty, yet if once this ineſtimable acquiſition is loſt, it is abſolutely irrecoverable.

There is in nations, as well as individuals, a term of maturity, at which they ſhould be permitted to arrive before they are ſubjected to laws. This term, however, is not always eaſy to be known; and yet if it be anticipated it may be of dangerous conſequence. Again, one people may be formed to diſcipline in their infancy; while another may not be ripened for ſubjection till after many centuries. The Ruſſians, for inſtance, will never be truly poliſhed becauſe they were diſciplined too ſoon. Peter had only an imitative turn; he had nothing of that true genius, whoſe creative power forms things out of nothing. Some of his meaſures, indeed, were proper enough, but moſt of them were ill-timed or ill-placed. He ſaw that his ſubjects were mere barbarians, but he did not

ſee

ſee that they were not ripe for being made polite. He wanted to civilize them, when he ſhould only have checked their brutality. He wanted to make them, at once, Germans and Engliſhmen, whereas he ought to have begun by making them firſt Ruſſians; and thus he prevented his ſubjects from ever becoming what otherwiſe they might have been, by perſuading them they were ſuch as they were not. It is thus a French tutor forms his pupil to make a figure in his child-hood, and to make none for ever afterwards. The Empire of Ruſſia, while it is ambitious of reducing all Europe to its ſubjection, will be ſubjected itſelf. Its neighbours, the Tartars, will in time become both its maſters and ours. This event ſeems to me inevitable; all the monarchs in Europe ſeeming to act, in concert, to accelerate ſuch a revolution.

CHAP. IX.

The ſubject continued.

IN the ſame manner as nature hath limited the dimenſions of a well-formed human body, beyond which ſhe produces only giants or dwarfs, ſo in the body politic there are limits,

limits, within or beyond which a ſtate ought not to be confined or extended; to the end that it may not be too big to be well governed, nor too little to maintain its own independency. There is in every body politic a *maximum* of force which it cannot exceed, and from which it often recedes by extending its dominion. The more the ſocial knot is extended, the more lax it grows; and in general, a little ſtate is always proportionably ſtronger than a great one.

A thouſand reaſons might be given in ſupport of this maxim. In the firſt place, the adminiſtration of government becomes always more difficult as the diſtance from the ſeat of it increaſes, even as a body has the greateſt weight at the end of the longeſt lever. It becomes alſo more burthenſome in proportion as it is divided into parts; for every town hath firſt its own particular government to pay; that of each diſtrict again is paid by the ſame people; next that of the province, then that of particular governments with their viceroys, all of whom are to be paid as they riſe in dignity, and always at the expence of the unhappy people; whom, laſt of all, the ſupreme adminiſtration itſelf cruſhes with the whole weight of its oppreſſion. It is impoſſible ſo many

needleſs charges ſhould not tend continually to impoveriſh the people; who, ſo far from being better governed by theſe different ranks of ſuperiors, are much worſe ſo, than if they had but one order of governors in the ſtate. And yet with this multiplicity of rulers, they are far from being furniſhed with proper reſources for extraordinary occaſions; but, on the contrary, when they have occaſion to recur to them, the ſtate is always on the brink of ruin.

Nor is this all; the government not only becomes leſs vigorous and active in putting the laws in execution, removing private oppreſſion, correcting abuſes, or preventing the ſeditious enterpriſes of rebellion in diſtant provinces; but the people have leſs affection for their chiefs, whom they never have an opportunity to ſee; for their country, which to them is like the whole world; and for their fellow-ſubjects, of which the greater part are utter ſtrangers. The ſame laws cannot be convenient for ſo many various people of different manners, and climates, and who cannot be ſuppoſed to live equally happy under the ſame form of government. And yet different laws muſt occaſion much

much trouble and confuſion among people, who, living under the ſame adminiſtration, and carrying on a perpetual intercourſe, frequently change their habitations, inter marry with each other, and, being educated under different cuſtoms, hardly ever know when their property is ſecure. Great talents lie buried, virtue lives obſcured, and vice prevails with impunity, amidſt that multitude of ſtrangers, which flock together round the chief ſeat of adminiſtration. The principals, overwhelmed with a multiplicity of buſineſs, can look into nothing themſelves; the government of the ſtate being left to their deputies and clerks. In a word, the meaſures to be taken, in order to maintain the general authority, on which ſo many diſtant officers are ever ready to encroach or impoſe, engroſs the public attention; there is none of it left to be employed about the happineſs of the people, and indeed hardly any for their defence in caſe of need: thus it is, that a body too unwieldy for its conſtitution grows debilitated and ſinks under its own weight.

On the other hand, a ſtate ought to be fixed on ſome baſis, to ſecure its ſolidity, to be able to reſiſt thoſe ſhocks which it will not fail to encounter, and to make thoſe efforts which it

will find neceſſary to maintain its independence. Nations have all a kind of centrifugal force by which they act continually againſt each other, and tend, like the vortices of Deſcartes, to aggrandize themſelves at the expence of their neighbours. Thus the weak run in danger of being preſently ſwallowed up by the ſtrong; nor is there any ſecurity for them, but by keeping themſelves in equilibrio with the reſt, and making the compreſſion on every ſide equal.

Hence we ſee it is prudent in ſome caſes to extend, and in others to reſtrain, the limits of a ſtate; nor is it one of the leaſt arts in civil polity to diſtinguiſh between one and the other, and to fix on that advantageous proportion which tends moſt to the preſervation of the ſtate. It may be obſerved in general, that the reaſons for extending dominion, relating to objects external and relative, ought to be ſubordinate to thoſe for contracting it, whoſe objects are internal and abſolute. A ſound and vigorous conſtitution is the firſt thing to be conſidered, and a much greater reliance is to be made on a good government, than on the reſources which are to be drawn from an extenſive territory.

Not

Not but that there have been inſtances of ſtates ſo conſtituted, that the neceſſity of their making conqueſts hath been eſſential to their very conſtitution. It is poſſible alſo they might felicitate themſelves on that happy neceſſity, which pointed out, nevertheleſs, with the ſummit of their grandeur, the inevitable moment of their fall.

CHAP. X.

The ſubject continued.

THE magnitude of a body politic may be taken two ways; viz. by the extent of territory, and the number of the people; a certain proportional relation between them conſtituting the real greatneſs of a ſtate. It is the people which form the ſtate, and the territory which affords ſubſiſtence to the people; this relation, therefore, exiſts when the territory is ſufficient for the ſubſiſtence of the inhabitants, and the inhabitants are as numerous as the territory can maintain. In this proportion conſiſts the *maximum* of the force of any given number of people; for if the territory be too extenſive, the defence of it is burthenſome, the cultivation inſufficient, and the produce ſuper-

fluous; hence the proximate cauſes of defenſive war. If, on the other hand, the territory be too ſmall, the ſtate is under the neceſſity of being obliged for part of its ſubſiſtence to its neighbours; hence the proximate cauſes of offenſive war. Every people who, by their ſituation, have no other alternative than commerce or war, muſt be neceſſarily feeble: they muſt depend on their neighbours, on adventitious circumſtances, and can only have a ſhort and uncertain exiſtence. They muſt conquer others, and thereby change their ſituation, or be conquered themſelves, and thence be reduced to nothing. It is impoſſible ſuch a ſtate can preſerve its independency but by its inſignificancy or its greatneſs.

It is not eaſy to calculate the determinate relation between the extent of territory and number of inhabitants, ſufficient for each other; not only on account of the difference in the qualities of the ſoil, in its degrees of fertility, in the nature of its productions, and in the influence of climate, but alſo on account of the remarkable difference in the temperament and conſtitution of the inhabitants; ſome conſuming but little in a fertile country, and others a great deal on a barren ſoil. Regard muſt alſo be had to the

the degree of fecundity among the females, to the circumſtances favourable or deſtructive to population, and to the number of people which the legiſlator may hope to draw from other countries by the advantages attending his ſcheme of government; ſo that he ought not to found his judgment on what actually exiſts; but on what he foreſees may exiſt hereafter; not on the preſent ſtate of population, but on that which will naturally ſucceed. In fine, there are a thouſand occaſions, on which local accidents acquire, or permit, a ſtate to poſſeſs a larger ſhare of territory than may appear actually neceſſary for preſent uſe. Thus a people may ſpread themſelves over a large ſpot in a mountainous country, whoſe natural produce, of wood or paſture, requires leſs labour of cultivation; where experience teaches us that women are more fruitful than in the flat countries; and in which a large inclined ſuperficies gives but a ſmall horizontal baſe, by which only the land muſt be eſtimated in the affair of vegetation. A people, on the contrary, may inhabit a leſs ſpace on the ſea-ſhore, or even among rocks and almoſt barren ſands; becauſe the fiſhery ſupplies them with ſuſtenance, inſtead of the produce of the earth; they can eaſily diſburthen their community by ſending

out colonies of its ſupernumerary inhabitants; and laſtly, becauſe it is neceſſary for them in ſuch a caſe to live near to each other, in order to repel the invaſions of pyrates.

We may add to theſe conditional precautions, reſpecting the formation of a people, one that can be ſupplied by no other, but without which all the reſt are uſeleſs: this is, that they ſhould enjoy peace and plenty. For the time in which a ſtate is forming, reſembles that in which ſoldiers are forming a battalion; it is the moment in which they are leaſt capable of reſiſtance, and the moſt eaſily defeated. They would even make a greater reſiſtance when put into abſolute diſorder afterwards, than during the interval of their firſt fermentation, when each is taken up more about his own particular rank than the common danger. Should a war, a famine, or a rebellion, break out at ſuch a criſis, the ſtate would be infallibly ſubverted.

Not but there have been many governments eſtabliſhed in times of diſorder and confuſion: in ſuch caſes, however, thoſe very governments ſubverted the ſtate. Uſurpers have always given riſe to, or took the advantage of, thoſe times of general confuſion, in order

der to procure ſuch deſtructive laws, which the people never could have been prevailed on to paſs at a more diſpaſſionate ſeaſon. The choice of the proper time for the inſtitution of laws, is one of the moſt certain tokens by which we may diſtinguiſh the deſign of a legiſlator from that of a tyrant.

If it be aſked then, what people are in a ſituation to receive a ſyſtem of laws? I anſwer, thoſe who, though connected by ſome primitive union either of intereſt or compact, are not yet truly ſubjected to regular laws; thoſe whoſe cuſtoms and prejudices are not deeply rooted; thoſe who are under no fear of being ſwallowed up by a ſudden invaſion, and who, without entering into the quarrels of their neighbours, are able to encounter ſeparately with each, or to engage the aſſiſtance of one to repel the other; a people whoſe individuals may be known to each other, and among whom it is not neceſſary to charge a man with a greater burthen than it is poſſible for him to bear; a people who can ſubſiſt without others, and without whom all others might ſubſiſt *; a people neither

* If two neighbouring people were ſo ſituated that one could not ſubſiſt without the other, the circumſtances

ther rich nor poor, but poſſeſſed of a competence within themſelves; a people, in ſhort, who poſſeſs at once the conſiſtency of an ancient nation, and the docility of a newly-created one. The great difficulty in legiſlation, conſiſts leſs in knowing what ought to be eſtabliſhed than what ought to be eradicated; and what renders it ſo ſeldom ſucceſsful, is the impoſſibility of finding the ſimplicity of nature in the wants of ſociety. It is true that all theſe circumſtances are very rarely united; and it is for this reaſon that ſo few ſtates have much to boaſt of, in their conſtitution. There is ſtill one country in Europe capable of receiving laws: this is the iſland of Corſica. The valour and conſtancy, with which thoſe brave people recovered, and have defended their liber-

ſtances of the firſt would be very hard, and of the latter very dangerous. Every wiſe nation, in ſuch a caſe, would extricate itſelf as ſoon as poſſible from ſuch a ſtate of dependence. The republic of Thlaſcala, ſituated in the heart of the Mexican empire, choſe rather to be without ſalt than purchaſe it, or even receive it gratis of the Mexicans. The prudent Thlaſcalans ſaw through the ſnare of ſuch liberality. Thus they preſerved their liberty; this petty ſtate, included within that great empire, being, in the end, the cauſe of its ruin.

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ty, might deſervedly excite ſome wiſe man to teach them how to preſerve it. I cannot help ſurmiſing, that this little iſland will, one day or other, be the aſtoniſhment of Europe.

CHAP. XI.

Of the various ſyſtems of legiſlature.

IF we were to enquire, in what conſiſts preciſely the greateſt good, or what ought to be the end of every ſyſtem of legiſlature; we ſhould find it reducible to two principal objects, *liberty* and *equality*; liberty, becauſe all partial dependence deprives the whole body of the ſtate of ſo much ſtrength; equality, becauſe liberty cannot ſubſiſt without it.

I have already explained the nature of ſocial liberty; and with regard to equality, we are not to underſtand by that term, that individuals ſhould all abſolutely poſſeſs the ſame degree of wealth and power; but only that, with reſpect to the latter, it ſhould never be exerciſed contrary to good order and the laws; and with reſpect to the former, that no one citizen ſhould be rich enough to buy another, and that none ſhould be ſo poor as to be obliged to ſell himſelf.

ſelf*. This ſuppoſes a moderation of poſſeſſions and credit on the ſide of the great, and the moderation of deſires and covetouſneſs on the part of the little.

This equality, they tell us, is a mere ſpeculative chimera, which cannot exiſt in practice: but though abuſes are inevitable, does it thence follow they are not to be corrected? It is for the very reaſon that things always tend to deſtroy this equality, that the laws ſhould be calculated to preſerve it.

Theſe general objects of legiſlature, however, ſhould be variouſly modified in different countries, agreeable to local ſituation, the character of the inhabitants, and thoſe other circumſtances which require that every people ſhould have a particular ſyſtem of laws, not always the beſt in itſelf, but the beſt adapted to

* Would you give a ſtate conſiſtency and ſtrength, prevent the two extremes as much as poſſible; let there be no rich perſons nor beggars. Theſe two conditions, naturally inſeparable, are equally deſtructive to the commonwealth: the one furniſhes tyrants, and the other the ſupporters of tyranny. It is by theſe the traffic of public liberty is carried on; the one buying, the other ſelling it.

that

that ſtate for which it is calculated. If, for example, the ſoil be ungrateful and barren, or the country too ſmall for its inhabitants, cheriſh induſtry and the arts, the productions of which may be exchanged for the commodities required. On the other hand, if your country abounds in fertile hills and plenteous vales; if you live on a rich ſoil in want of inhabitants; apply yourſelves to agriculture, which affords the means of population; and baniſh the deſtructive arts which ſerve only to ruin a country, by gathering the few inhabitants of it, together in one particular ſpot or two, to the depopulation of all the reſt *. Do you occupy an extenſive and commodious ſituation by the ſea ſide? Cover the ocean with your ſhips, cultivate the arts of navigation and commerce: you will by theſe means enjoy a brilliant but ſhort exiſtence. On the contrary, do the waves only waſte their ſtrength againſt your inacceſſible rocks? Remain barbarous and illiterate; you will live but the more at eaſe, perhaps more virtuous, aſ-

* The advantage of foreign commerce, ſays the Marquis d'A. is productive only of a deluſive utility to the kingdom in general. It may enrich a few individuals, and perhaps ſome cities; but the whole nation gains nothing by it, nor are the people the better for it.

ſuredly

ſuredly more happy. In a word, beſides the maxims common to all nations, every people are poſſeſſed in themſelves of ſome cauſe which influences them in a particular manner, and renders their own ſyſtem of laws proper only for themſelves. It is thus that in ancient times, among the Hebrews, and in modern times, among the Arabians, religion was made the principal object of national concern; among the Athenians this object was literature; at Carthage and Tyre it was commerce, at Rhodes it was navigation, at Sparta war, and at Rome public virtue. The author of the *Spirit of laws* hath ſhewn, by a number of examples, in what manner the legiſlator ſhould model his ſyſtem agreeable to each of theſe objects.

What renders the conſtitution of a ſtate truly ſolid and durable, is that agreement maintained therein between natural and ſocial relations, which occaſions the legiſlature always to act in concert with nature, while the laws ſerve only to confirm and rectify, as it were, the dictates of the former. But if the legiſlator, deceived in his object, ſhould aſſume a principle different from that which ariſes from the nature of things; ſhould the one tend to ſlavery and the other to liberty, one to riches, the other to population,

one

one to peace the other to war and conqueſts, the laws would inſenſibly loſe their force, the conſtitution would alter, and the ſtate continue to be agitated till it ſhould be totally changed or deſtroyed, and nature have reſumed its empire.

CHAP. XII.

On the diviſion of the laws.

IN order to provide for the government of the whole, or give the beſt poſſible form to the conſtitution, various circumſtances are to be taken into conſideration. Of theſe the firſt is the action of the whole body operating on itſelf; that is the relation of the whole to the whole, or of the ſovereign to the ſtate, which relation is compoſed of thoſe between the intermediate terms; as will be ſeen hereafter.

The laws which govern this relation bear the name of politic laws, and are alſo called fundamental laws, not without ſome reaſon when they are wiſely ordained. For if there be only one good method of government in a ſtate, the people, who have been ſo happy as to hit on that method, ought to abide by it: but, wherefore

ſhould a people, whoſe laws are bad or defective, eſteem ſuch laws to be fundamental? Beſides, a nation is in any caſe at liberty to change even the beſt laws, when it pleaſes: for if a people have a mind even to do themſelves an injury, who hath any right to prevent them?

The ſecond circumſtance is the relations which the members of the community bear to each other and to the whole body, the firſt of which ſhould be as little, and the laſt as great, as poſſible: ſo that every citizen ſhould live in a ſtate of perfect independence on all the reſt, and in a ſtate of the greateſt dependence on the city. Both theſe are ever effected by the ſame means: for it is the power of the ſtate only that conſtitutes the liberty of its members. On this ſecond kind of relation is laid the immediate foundation of the civil laws.

It may be proper to conſider alſo a third ſpecies of relation between the individual and the law; which gives immediate riſe to penal ſtatutes: theſe, however, are in fact leſs a diſtinct ſpecies of laws than the ſanction of all the others.

To

To theſe three kinds of laws, may be added a fourth, more important than all the reſt; and which are neither engraven on braſs or marble; but in the hearts of the citizens; forming the real conſtitution of the ſtate. Theſe are the laws which acquire daily freſh influence, and when others grow old and obſolete, invigorate and revive them: theſe are the laws which keep alive in the hearts of the people, the original ſpirit of their inſtitution, and ſubſtitute inſenſibly the force of habit to that of authority. The laws I here ſpeak of, are manners, cuſtoms, and above all public opinion; all unknown or diſregarded by our modern politicians, but on which depends the ſucceſs of all the reſt. Theſe are the objects on which the real legiſlator is employed in ſecret, while he appears ſolely to confine himſelf to thoſe particular regulations which compoſe only the preparatory centre of the vault, of which manners, more ſlow in their progreſs, form in the end the immoveable arch.

Of theſe claſſes, politic laws, or thoſe which conſtitute the form of government, are relative only to my preſent ſubject.

The END of the SECOND BOOK.

BOOK

BOOK III.

BEFORE we enter on a diſcuſſion of the ſeveral forms of government, it will not be improper to aſcertain the preciſe meaning of that term; which as yet hath not been well explained.

CHAP. I.

On government in general.

I MUST previouſly caution the reader to peruſe this chapter very deliberately, as it is impoſſible to render myſelf clearly intelligible to ſuch as are not attentive.

Every free action hath two cauſes, which concur to effect its production, the one moral, viz. the will which determines the act; the other phyſical, viz. the power which puts it in execution. When I walk, for inſtance, toward any particular object, it is firſt neceſſary that I ſhould will to go; and ſecondly that my feet ſhould bear me forward. A paralytic may will to run, and an active racer be unwilling; the want of power in the one hath the ſame effect as

as the want of will in the other; both remain in their place. The body politic hath the ſame principles of motion; which are diſtinguiſhed alſo in the ſame manner by power and will: the latter under the name of the *legiſlative* power, and the former under that of the *executive* power. Nothing is or ought to be done without the concurrence of both.

We have already ſeen that the legiſlative power belongs to the people in general, and can belong to none elſe. On the other hand, it is eaſy to conclude, from the principles already eſtabliſhed, that the executive power cannot appertain to the generality, as legiſlator or ſovereign; becauſe this power is exerted only in particular acts which are not the province of the law, nor of courſe that of the ſovereign, whoſe acts can be no other than laws.

To the public force, therefore, ſhould be annexed a proper agent, which may re-unite and put it in action, agreeable to the directions of the general will; ſerving as a communication between the ſtate and the ſovereign, and effecting the ſame purpoſe in the body politic, as the union of the ſoul and body in man. Such is the rationale of government, ſo generally confounded

founded with the ſovereign, of which it is only the miniſtry.

What then is government? It is an intermediate body eſtabliſhed between the ſubject and the ſovereign, for their mutual correſpondence; charged with the execution of the laws, and with the maintenance of civil and political liberty.

The members of which this body is compoſed, are called magiſtrates or *kings*, that is to ſay, *governors*, and the whole body bears the name of the *prince* *. Thoſe, therefore, who affirm that the act, by which a people profeſs ſubmiſſion to their chiefs or governors, is not a contract, are certainly right; it being in fact nothing more than the conferring a ſimple commiſſion on the ſaid chiefs; an employ, in the diſcharge of which they act as mere officers of the ſovereign, exerciſing in its name the power which it hath placed in their hands, and which it may limit, modify or reſume whenever it pleaſes; the alienation of its right ſo to do, being incompatible with the very nature and being of ſociety.

* Thus at Venice the college of ſenators is called the moſt ſerene *prince*, even when the doge is not preſent.

I call

I call therefore, the legal exercise of the executive power, the *Government* or supreme administration; and the individual or body, charged with that administration, the prince or the magistrate.

In the government are to be found those intermediate forces, whose relations compose that of the whole to the whole, or of the sovereign to the state. This last relation may be represented by that of the extremes of a constant proportion, the mean proportional of which is the government. The government receives from the sovereign those orders, which it gives to the people; so that, in order to keep the state in due equilibrio, there should, every thing considered, be the same equality between the momentum or force of the government taken in itself, and the momentum or force of the citizens, who are the sovereign considered collectively on one side, and subjects considered severally on the other.

It is, besides, impossible to vary any of these three terms, without instantly destroying the proportions. If the sovereign should be desirous to govern, or the magistrate to give laws, or the subjects refuse to obey; disorder must immediately

mediately take place; the will and the power thus no longer acting in concert, the ſtate would be diſſolved, and fall into deſpotiſm or anarchy. Add to this, that as there can be but one mean proportional between each relation, there can be but one good government for a ſtate. But as a thouſand events may change the relations ſubſiſting among a people; different governments may not only be good for different people, but even for the ſame people at different periods of time.

In order to give the reader an idea of the various relations that may exiſt between theſe two extremes, I ſhall, by way of example, make uſe of the number of people, as a relation the moſt eaſily expreſſed.

We will ſuppoſe, for inſtance, that a ſtate is compoſed of ten thouſand citizens. The ſovereign muſt be conſidered as collectively only and in a body: but every particular in quality of ſubject is conſidered as an individual: thus the ſovereign is in this caſe to the ſubject as ten thouſand to one: That is to ſay, every member of the ſtate ſhares only the ten thouſandth part of the ſovereign authority, while at the ſame time he is ſubjected to it in his whole perſon. Again, ſhould the number of people be increaſed

to

to an hundred thouſand, the ſubmiſſion of the ſubjects would receive no alteration; each of them being totally ſubjected to the authority of the laws, while his ſhare in the ſovereignty, and vote in the enaction of theſe laws, would be reduced to the hundred-thouſandth part; a tenth leſs than before. Thus the ſubject, remaining always a ſingle integer, the proportion between him and the ſovereign increaſes as the number of citizens is augmented: whence it follows, that as a ſtate increaſes, the liberty of the ſubject diminiſhes.

When I ſay the proportion increaſes, I mean that it recedes farther from the point of equality. Thus the greater the proportion, in the language of the geometricians, it is reckoned the leſs according to common acceptation: agreeable to the former, the relation, conſidered in point of quantity, is eſtimated by its extent; and according to the latter, conſidered in point of identity, it is eſtimated by its proximation.

Now, the leſs proportion which particular voices bear to the general, that is to ſay, the manners to the laws, the more ought the general reſtrictive force to be augmented. Thus the government ſhould be relatively more powerful as the people are more numerous.

On

On the other hand, the increaſing greatneſs of a ſtate affording the guardians of the public authority greater temptations and means to abuſe their power, the more force a government is poſſeſſed of to reſtrain the people, the more ought the ſovereign to be poſſeſſed of in its turn to reſtrain the government. I am not ſpeaking here of abſolute power, but of the relative forces of the component parts of the ſtate.

It follows, from this two-fold relation, that the conſtant proportion between the ſovereign, the prince, and the people, is not a mere arbitrary idea, but a neceſſary conſequence of the very exiſtence of the body politic. It follows alſo, that, one of the extremes, *viz.* the people as ſubjects, being a fixed term repreſented by unity, wherever the two-fold ratio is increaſed or diminiſhed, that the ſimple ratio muſt increaſe or diminiſh in like manner, and of courſe the mean term will be changed. Hence it appears there is no one ſettled conſtitution of government, but that there may be as many governments different in their nature as there are ſtates differing in magnitude.

If any one ſhould affect to turn my ſyſtem into ridicule, and ſay that, in order to find this mean proportional, and form the government as it ought to be, we have no more to do than to find the ſquare root of the number of the people; I anſwer that I here make uſe of the number of people only by way of example; that the relations of which I have been ſpeaking, are not only eſtimated by the number of individuals, but in general by the momentum or quantity of action, which ariſes from a combination of various cauſes; and though, in order to expreſs myſelf conciſely, I borrow the terms of geometry, I am not ignorant that geometrical preciſion is not to be expected in treating of moral quantities.

The government is in miniature what the body politic containing it, is at large. It is a moral perſon endued with certain faculties, active as the ſovereign, paſſive as the ſtate, and capable of being reſolved into other ſenſible relations, from which of courſe ariſes a new ſcale of proportion, and ſtill another within this, according to the order of the courts of juſtice, till we arrive at the laſt indiviſible term, that is to ſay, the ſole chief or ſupreme magiſtrate, which may be repreſented in the centre

of this progreſſion, as an unity between the ſeries of fractions, and that of whole numbers.

But, without embarraſſing the reader with a multiplicity of terms, we ſhall content ourſelves with conſidering the government as a new body in the ſtate, diſtinct from the ſubjects and the ſovereign, and exiſting between both.

There is this eſſential difference, however, between the government and the ſtate, that the latter exiſts of itſelf, and the former only by means of the ſovereign. Thus as the ruling will of the prince is, or ought to be, only the general will, or the law, the power of the prince is only that of the public centered in him; ſo that whenever he would derive from himſelf any abſolute and independent act, the combination of the whole is affected. And if, at length, the prince ſhould have a particular will of his own, more active than that of the ſovereign, and ſhould make uſe of the public power in his hands to enforce obedience to ſuch particular will, forming, as it were, two ſovereigns, the one of right and the other of fact, the ſocial union immediately vaniſhes, and the body politic is diſſolved.

In

In order that the body of government, nevertheleſs, may have an exiſtence, a real life to diſtinguiſh it from that of the ſtate, and that its members may act in concert to anſwer the end for which it is inſtituted, it is neceſſary that it ſhould be poſſeſſed of a particular identity, a ſenſibility common to all its members, a power and will of its own for the ſake of its preſervation. Such a particular exiſtence neceſſarily ſuppoſes that of aſſemblies and councils; of a power to deliberate and reſolve; of the rights, titles and privileges which belong excluſively to the prince, and render the ſituation of a magiſtrate the more honourable in proportion as it is more laborious. The difficulty lies in the method of diſpoſing all the inferior parts of the whole body; ſo that, while it is ſtrengthening its own conſtitution, it may not injure that of the ſtate. At the ſame time alſo, it ſhould always diſtinguiſh between the peculiar force, deſtined to its own preſervation, and the public force deſtined to the preſervation of the ſtate; in a word, it ſhould be always ready to ſacrifice the government to the people, and not the people to the government.

To this we may add, that, although the artificial body of government be the work of another

other artificial body, and is poſſeſſed only of a borrowed and ſubordinate exiſtence; this doth not prevent it from acting with different degrees of vigour and celerity, or from enjoying, if I may ſo expreſs myſelf, a greater or leſs ſhare of health and ſtrength. In ſhort, it may, without running diametrically oppoſite to the purpoſes of its inſtitution, deviate from them more or leſs, according to the mode in which it is conſtituted.

It is from all theſe differences that ariſe thoſe various relations and proportions, which the government ought to bear toward the ſtate, according to theſe accidental and particular relations in which the ſtate is modified. For the beſt government in itſelf may often become the worſt, if the relation of its component parts are not altered according to the defects of the body politic to which it belongs.

CHAP.

CHAP. II.

On the principle which conſtitutes the different forms of government.

TO explain the general cauſe of theſe differences, it is neceſſary to diſtinguiſh here between the prince and the government, in the ſame manner as I have already done between the ſovereign and the ſtate. The body of the magiſtracy may be compoſed of a greater or a leſs number of members. It hath been obſerved alſo that the relation the ſovereign bears to the ſubject increaſes in proportion to the number of people; thus, by an evident analogy, we may ſay the ſame of the relation between the government and the magiſtrates.

Now the total force of the government, being always equal to that of the ſtate, ſuffers no alteration; whence it follows that the more ſuch force is ſpent by the diſtribution of it among the members of the government, the leſs remains to be exerted on the whole body of people.

That government, therefore, which is in the hands of the greateſt number of magiſtrates muſt be the moſt feeble. As this is a fundamental maxim, we ſhall take ſome pains to illuſtrate it.

In the perſon of the magiſtrate may be diſtinguiſhed three wills eſſentially different. In the firſt place the particular will of the individual, which tends only to his private advantage; ſecondly, that will which is common to him as a magiſtrate, tending ſolely to the advantage of the prince; being general with reſpect to the government, and particular with regard to the ſtate, of which the government is only a part; and in the third place, the will of the people or the ſovereign will, which is general as well with regard to the ſtate conſidered as a whole, as with regard to the government conſidered as a part of that whole.

In a compleat ſyſtem of legiſlature, the particular will or that of the individual ſhould amount to nothing; the will of the body of government ſhould be very limited, and of courſe the general or ſovereign will the ruling and ſole director of all the others.

Ac-

According to the order of nature, however, theſe different wills are ranged in a contrary manner; being always more active as they are concentrated in themſelves. Thus the general will is always the moſt feeble, that of the government next, and the will of the individual the ſtrongeſt of all; ſo that each member of the adminiſtration is to be conſidered firſt of all as an individual, ſecondly as a magiſtrate, and laſtly as a citizen: a gradation directly oppoſite to that which the order of ſociety requires.

This point being ſettled, let us ſuppoſe the adminiſtration of government committed to the hands of one man. In this caſe the will of the individual, and that of the body of the magiſtracy are perfectly united, and of conſequence the latter poſſeſſes the greateſt degree of intenſity. Now, as it is on the degree of the will that the exertion of force depends, and as the abſolute force of the government never varies, it follows that the moſt active of all adminiſtrations muſt be that of a ſingle perſon.

On the contrary, if we unite the adminiſtration and the legiſlature; if we make the prince

the ſovereign, and the citizens all ſo many magiſtrates: in this caſe, the will of the government, confounded with the general will, would poſſeſs no greater ſhare of activity, but would leave the particular will of individuals to exert its whole force. Thus the government, having always the ſame degree of abſolute force, would be at its *minimum* of relative force or activity.

Theſe relations are inconteſtible, and may be farther confirmed by other conſiderations. It is evident, for example, that the magiſtrate is more active in that capacity than the citizen in his, and that of courſe the will of the individual muſt have a more conſiderable ſhare of influence in the adminiſtration of government, than in the actions of the ſovereign; every magiſtrate being almoſt always charged with ſome function of government, whereas no citizen, conſidered as an individual, diſcharges any function of the ſovereignty. Beſide this, the real force of a ſtate increaſes, as the ſtate increaſes in magnitude, though not always in the ratio of that magnitude; but while the ſtate remains the ſame, it is in vain to increaſe the number of magiſtrates, as the government will not thereby acquire any additional ſtrength,

becauſe

becauſe its force, being always that of the ſtate, is conſtantly equal. And thus the relative force or activity of government is diminiſhed, without its real and abſolute force being augmented.

It is farther certain that public affairs muſt be tranſacted more or leſs expeditiouſly according to the number of people, charged with their diſpatch; that by laying too great a ſtreſs on prudence, too little is truſted to fortune; that the opportunity of ſucceſs is thus frequently loſt, and that by the mere force of deliberation the end of it is defeated.

This may ſerve to prove that the reins of government are relaxed in proportion as the magiſtrates are multiplied; and I have before demonſtrated that the more numerous the people are, the more ſhould the reſtraining power of government be increaſed: Hence it follows that the proportion which the number of magiſtrates ſhould hold to the government ſhould be in the inverſe ratio of the ſubjects to the ſovereign; that is to ſay, the more extenſive the ſtate the more contracted ſhould be the government, the number of chiefs diminiſhing as that of the people increaſes.

I ſpeak here only of the relative force of the government, and not of the rectitude or propriety of it. For, otherwiſe, it is certain that the more numerous the magiſtracy is, the nearer doth the will of that body approach to the general will of the whole people; whereas under a ſole chief, the will of the magiſtracy is, as I have before obſerved, only that of an individual. Thus what is gained in one reſpect, is loſt on the other; and the art of the legiſlator conſiſts in tracing the fixed point, at which the force and the will of the government, always in a reciprocal proportion to each other, unite in that proportion which is moſt advantageous to the ſtate.

CHAP. III.

Of the actual diſtinctions of governments.

WE have treated in the preceding chapter of the reaſons for diſtinguiſhing the ſeveral ſpecies and forms of government, by the number of the members compoſing them; it remains therefore to ſhew, in the preſent, how theſe diſtinctions are actually made.

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The ſovereign authority may, in the firſt place, commit the charge of the government to the whole people or to the greater part of them; the number of magiſtrates in ſuch caſe exceeding that of private citizens. This form of government is diſtinguiſhed by the name of a democracy.

Or, otherwiſe, the ſupreme power may commit the office of government into the hands of a few, ſo that the number of private citizens may exceed that of magiſtrates; and this form bears the name of an ariſtocracy.

Or laſtly, the government may be entruſted to one magiſtrate only, who delegates his power to all the reſt. This third form is the moſt common, and is called a monarchy or a regal government.

It is to be obſerved that all theſe forms, and particularly the two former, are ſuſceptible of different degrees of perfection, and admit indeed of conſiderable latitude in their modification: for a democracy may comprehend the whole people, or be limited to the half. An ariſtocracy alſo may comprehend any quantity

from the half of the people to the ſmalleſt number indefinitely. Nay a monarchy itſelf is ſuſceptible of ſome diſtribution. Sparta, for inſtance, had conſtitutionally two kings at a time; and the Romans had even eight emperors at once, without the empire having been actually divided. Thus, we ſee, there is a certain point, at which each form of government is confounded with that to which it is neareſt related; and thus under three diſtinguiſhing denominations only, government is really ſuſceptible of as many different forms, as there are citizens in the ſtate.

To go ſtill farther; as even one and the ſame government is capable, in many reſpects, of being ſubdivided into parts, of which the adminiſtration may reſpectively differ, there may reſult from the varied combinations of theſe forms a multitude of others, every one of which may be again multiplied by all the ſimple forms.

Politicians have in all ages diſputed much about the beſt form of government, without conſidering that each different form may poſſibly be the beſt in ſome caſes, and the worſt in others.

If

If in different ſtates the number of ſupreme magiſtrates ſhould be in the inverſe ratio to that of the citizens, it follows that the democratical government is generally ſpeaking better ſuited to ſmall ſtates, the ariſtocratical to middling ſtates, and the monarchical to great ſtates. This rule is deduced immediately from our principles; but it is impoſſible to particularize the multiplicity of circumſtances which may furniſh exceptions againſt it.

CHAP. IV.

Of a Democracy.

THE inſtitutor of a law ſhould certainly know better than any other perſon, how it ought to be underſtood and executed. It ſhould ſeem therefore that the beſt conſtitution, muſt be that in which the legiſlative and executive powers are lodged in the ſame hands. It is this very circumſtance, however, that renders ſuch a government imperfect; becauſe there doth not exiſt the neceſſary diſtinction, which ought to be made in its parts; while the prince and the ſovereign, being one and the ſame perſon, only form, if I may ſo expreſs myſelf, a government without a government.

It is not proper that the power which makes the laws ſhould execute them, or that the attention of the whole body of the people ſhould be diverted from general views to particular objects. Nothing is more dangerous than the influence of private intereſt in publick affairs; the abuſe of the laws by the government, being a leſs evil than the corruption of the legiſlature; which is infallibly the conſequence of its being governed by particular views. For in that caſe, the ſtate being eſſentially altered, all reformation becomes impoſſible. A people who would not abuſe the power of government, would be no more propenſe to abuſe their independence; and a people who ſhould always govern well, would have no occaſion to be governed at all.

To take the term in its ſtricteſt ſenſe, there never exiſted, and never will exiſt, a real democracy in the world. It is contrary to the natural order of things, that the majority of a people ſhould be the governors, and the minority the governed. It is not to be conceived that a whole people ſhould remain perſonally aſſembled to manage the affairs of the public; and it is evident, that no ſooner are deputies or repreſentatives appointed, than the form of the adminiſtration is changed.

It may be laid down indeed as a maxim, that when the functions of government are divided among ſeveral courts, that which is compoſed of the feweſt perſons will, ſooner or later, acquire the greateſt authority; though it were for no other reaſon than the facility with which it is calculated to expedite affairs.

Such a form of government ſuppoſes, alſo, the concurrence of a number of circumſtances rarely united. In the firſt place, it is requiſite that the ſtate itſelf ſhould be of ſmall extent, ſo that the people might be eaſily aſſembled and all perſonally known to each other. Secondly, the ſimplicity of their manners ſhould be ſuch as to prevent a multiplicity of affairs, and perplexity in diſcuſſing them: And thirdly, there ſhould ſubſiſt a great degree of equality between the rank and fortunes of individuals; without which there cannot exiſt long any equality between them in point of right and authority. Laſtly, there ſhould be little or no luxury; for luxury muſt either be the effect of wealth, or it muſt make it neceſſary; it corrupts at once both rich and poor; the one by means of the poſſeſſion of wealth, and the other by means of the want of it. Luxury makes a ſacrifice of pa-

patriotiſm to indolence and vanity; it robs a ſtate of its citizens by ſubjecting them to each other, and by ſubjecting all to the influence of public prejudice.

It is for this reaſon that a certain celebrated author hath laid down virtue as the firſt principle of a republican government: for all theſe circumſtances cannot concur without the exiſtence of public virtue. For want, however, of making proper diſtinctions, this great genius hath been led into frequent miſtakes, as well as want of preciſion; not having obſerved that, the ſovereign authority being every where the ſame, the ſame principle muſt take place in every well conſtituted ſtate; though it is true in a greater or leſs degree, according to the form of government.

To this it may be added, that no government is ſo ſubject to civil wars and inteſtine commotions as that of the democratical or popular form; becauſe no other tends ſo ſtrongly and ſo conſtantly to alter, nor requires ſo much vigilance and fortitude to preſerve it from alteration. It is, indeed, in ſuch a conſtitution particularly that the citizen ſhould always be armed.

ed with force and conſtancy, and ſhould repeat every day, in the ſincerity of his heart, the ſaying of the virtuous palatine *. *Malo periculoſam libertatem quam quietum ſervitium.*

Did there exiſt a nation of Gods, their government would doubtleſs be democratical; it is too perfect a form, however, for mankind.

CHAP. V.

Of an Ariſtocracy.

IN this form of government exiſt two moral perſons, very palpably diſtinct, viz. the adminiſtration and the ſovereign; which of courſe poſſeſs two general wills, the one regarding the citizens univerſally; the other only the members of the adminiſtration. Thus, although the government may regulate the interior police of the ſtate as it pleaſes, it cannot addreſs the people but in the name of the ſovereign, that is to ſay, the people themſelves; which is a circumſtance never to be omitted. The primitive ſocieties of mankind were governed ariſtocrati-

* The Palatine of Poſnania, father of the king of Poland, Duke of Lorrain.

cally.

cally. The heads of families deliberated among themſelves concerning public affairs; the young people readily ſubmitting to the authority of experience. Hence the names of *Prieſts*, the *Fathers*, the *Senate*, &c. The ſavages of North America are governed in the ſame manner to this day, and are extremely well governed.

But, in proportion as the inequality ariſing from ſocial inſtitutions prevailed over natural inequality, riches and power were preferred to age *, and the ariſtocracy became elective. At length power, tranſmitted with property from father to ſon, making whole families patrician, rendered the government hereditary, and boys of twenty became ſenators.

Ariſtocracy therefore is of three kinds; natural, elective and hereditary. The firſt, is applicable only to the moſt ſimple ſtate of ſociety, while the laſt is the worſt of all kinds of government. The ſecond is the beſt; and is what is moſt properly denominated an ariſtocracy.

* It is evident that the term *optimates* among the ancients, did not mean the beſt, but moſt powerful.

Beſide

Beſide the advantage of the abovementioned diſtinction, this form hath alſo that of the choice of its members: in a popular government all the citizens are born magiſtrates; but in this the number of the latter are very limited, and they become ſuch only by election *; a method by which their probity, their talents, their experience, and all thoſe other reaſons for preference in the public eſteem, are an additional ſecurity that the people ſhall be wiſely governed.

Again, their public aſſemblies are attended with more decorum; affairs of ſtate are more regularly diſcuſſed, and buſineſs executed with greater order and expedition; while the credit of the ſtate is better ſupported, in the eyes of foreigners, by a ſelect number of venerable ſenators, than by a promiſcuous or contemptible mob.

* It is of great importance to regulate by law the method of chuſing magiſtrates; for, in leaving this to the prince, it is impoſſible to avoid falling into an hereditary ariſtocracy, as happened to the republics of Venice and Berne. Hence the firſt has been long ſince diſſolved, but the ſecond hath been ſupported by the great prudence of the Senate. This is an exception, however, as dangerous as honourable.

In

In a word, that order would be undoubtedly the beſt and moſt natural, according to which the wiſe and experienced few direct the multitude, were it certain that the few would in their government conſult the intereſt of the majority governed, and not their own. It is abſurd to multiply the ſprings of action to no purpoſe, or to employ twenty thouſand men in doing that, which an hundred properly ſelected would effect much better.

With regard to the particular circumſtances requiſite to this form of government; the ſtate ſhould not be ſo ſmall, nor the manners of the people ſo ſimple or ſo virtuous as that the execution of the laws ſhould coincide with the public Will, as in a well founded democracy. On the other hand alſo, the ſtate ſhould not be ſo extenſive that the governors, diſtributed up and down its provinces, might be able to render themſelves, each in his ſeparate department, independant of the ſovereign.

But if an ariſtocracy requires fewer virtues than a popular government; there are yet ſome which are peculiar to it; ſuch as moderation in the rich and content in the poor: an exact equality

lity of condition would in ſuch a government be quite improper: nor was it obſerved even at Sparta.

If a certain degree however, of inequality in the fortunes of the people, be proper in ſuch a government; the reaſon of it is, that in general the adminiſtration of public affairs, ought to be put into the hands of thoſe perſons who can beſt devote their time to ſuch ſervice; not, as Ariſtotle pretends, that the rich ought always to be preferred merely on account of their wealth. On the contrary, it is very neceſſary that an oppoſite choice ſhould ſometimes teach the people that there exiſt other motives of preference much more important than riches.

CHAP. VI.

On monarchy.

HITHERTO we have conſidered the prince as a moral and collective perſonage, formed by the force of the laws, and as the depoſitory of the executive power of the ſtate. At preſent, it is our buſineſs to conſider this power, as lodged in the hands of a phyſical perſonage or real man; poſſeſſed of the right of ex-

exerting it agreeable to the laws. Such a perſon is denominated a monarch or king.

In other adminiſtrations it is common for a collective body to repreſent an individual being; whereas in this an individual is, on the contrary, the repreſentative of a collective body; ſo that the moral unity which conſtitutes the prince, is at the ſame time a phyſical unity, in which all the faculties which the law combines in the former are combined naturally in the latter.

Thus the will of the people and that of the prince, together with the public force of the ſtate, and the particular force of the government, all depend on the ſame principle of action: all the ſprings of the machine are in the ſame hand, are exerted to the ſame end; there are no oppoſite motions counteracting and deſtroying each other; nor is it poſſible to conceive any ſpecies of government in which the leaſt effort is productive of ſo great a quantity of action. Archimedes, ſitting at his eaſe on the ſhore, and moving about a large veſſel on the ocean at pleaſure, repreſents to my imagination an able monarch ſitting in his cabinet, and governing his diſtant provinces, by keeping every thing in motion,

motion, while he himſelf ſeems immoveable. But, if no other kind of government hath ſo much activity, there is none in which the particular will of the individual is ſo predominant. Every thing, it is true, proceeds toward the ſame end; but this end is not that of public happineſs; and hence the force of the adminiſtration operates inceſſantly to the prejudice of the ſtate.

Kings would be abſolute, and they are ſometimes told that their beſt way to become ſo, is to make themſelves beloved by the people. This maxim is doubtleſs a very fine one, and even in ſome reſpects true. But unhappily it is laughed at in courts. That power which ariſes from the love of the people is without doubt the greateſt: but it is ſo precarious and conditional, that princes have never been ſatisfied with it. Even the beſt kings are deſirous of having it in their power to do ill when they pleaſe, without loſing their prerogatives. It is to no purpoſe that a declaiming politician tells them that the ſtrength of the people being theirs, it is their greateſt intereſt to have the people flouriſhing, numerous and reſpectable: they know that this is not true. Their perſonal and private intereſt is,

is, in the firſt place, that the people ſhould be ſo weak and miſerable as to be incapable of making any reſiſtance to government. I confeſs indeed that, ſuppoſing the people to be held in perfect ſubjection, it would be to the intereſt of the prince that they ſhould be rich and powerful, becauſe their ſtrength, being alſo his, ſerves to make him reſpectable to his neighbours; but as this intereſt is only ſecondary and ſubordinate, and that theſe ſuppoſitions are incompatible, it is natural for princes to give the preference always to that maxim which is the moſt immediately uſeful. This is what Samuel hath repreſented very forcibly to the Hebrews; and Machiavel hath made evident to a demonſtration. In affecting to give inſtructions to kings, he hath given the moſt ſtriking leſſons to the people: His book entitled the Prince, is particularly adapted to the ſervice of Republics.

We have already ſhewn from the general relations of things, that a monarchy is ſuitable only to great ſtates, and we ſhall be more particularly convinced of it, on a further examination. The more numerous the members of the public adminiſtration, the more is the relation beween the prince and the ſubjects diminiſhed, and the nearer

nearer it approaches to nothing, or that point of equality which ſubſiſts in a democracy. This relation increaſes in proportion as the government is contracted; and arrives at its *maximum* when the adminiſtration is in the hands of a ſingle perſon. In this caſe, then, there is too great a diſtance between the prince and people, and the ſtate is void of connection. To ſupply its place, therefore, recourſe is had to the intermediate ranks of people. Hence the ſeveral orders of nobility. But nothing of this kind is ſuitable to a ſmall ſtate, to which theſe different ranks are very deſtructive.

If the good government of a ſtate be a matter of difficulty under any mode of adminiſtration, it is more particularly ſo in the hands of a ſingle perſon; and every body knows the conſequences when a king reigns by ſubſtitutes.

Again, there is one eſſential and unavoidable defect, which will ever render a monarchical government inferior to a republic; and this is, that in the latter, the public voice hardly ever raiſes unworthy perſons to high poſts in the adminiſtration; making choice only of men of knowlege and abilities, who diſcharge their reſpective

functions with honour: whereas thoſe who generally make their way to ſuch poſts under a monarchical government, are men of little minds and mean talents, who owe their preferment to the meritricious arts of flattery and intrigue. The public are leſs apt to be deceived in their choice than the prince; and a man of real merit is as rarely to be found in the miniſtry of a king, as a blockhead at the head of a republic. Thus, when by any fortunate accident, a genius born for government, takes the lead in a monarchy, brought to the verge of ruin by ſuch petty rulers, the world is amazed at the reſources he diſcovers, and his adminiſtration ſtands as a ſingular epoch in the hiſtory of his country.

To have a monarchical ſtate well governed, it is requiſite that its magnitude or extent ſhould be proportioned to the abilities of the regent. It is more eaſy to conquer than to govern. By means of a lever ſufficiently long, it were poſſible with a ſingle finger to move the globe; but to ſupport it requires the ſhoulders of an Hercules. When a ſtate may with any propriety be denominated great, the prince is almoſt always too little. And when, on the contrary, it happens, which however is very ſeldom, that

that the ſtate is too little for its regent, it muſt be ever ill-governed; becauſe the chief, actuated by the greatneſs of his own ideas, is apt to forget the intereſt of his people, and makes them no leſs unhappy from the abuſe of his ſuperfluous talents, than would another of a more limited capacity, for want of thoſe talents which ſhould be neceſſary. It is thence requiſite, that a kingdom ſhould, if I may ſo ſay, contract and dilate itſelf, on every ſucceſſion, according to the capacity of the reigning prince: whereas the abilities of a ſenate being more fixt, the ſtate, under a republican government, may be confined or extended to any determinate limits, and the adminiſtration be equally good. The moſt palpable inconvenience in the government of a ſole magiſtrate, is the default of that continued ſucceſſion, which, in the two other kinds, forms an uninterrupted connection in the ſtate. When one king dies, it is neceſſary to have another; but when kings are elective, ſuch elections form very turbulent and dangerous intervals; and unleſs the citizens are poſſeſſed of a diſintereſtedneſs and integrity, incompatible with this mode of government, venality and corruption will neceſſarily have an influence over them. It is very rare that he,

to whom the ſtate is ſold, does not ſell it again in his turn, and make the weak repay him the money extorted from him by the ſtrong. Every one becomes, ſooner or later, venal and corrupt, under ſuch an adminiſtration; while even the tranquillity, which is enjoyed under the kings, is worſe than the diſorder attending their *interregnum*.

To remedy theſe evils, crowns have been made hereditary, and an order of ſucceſſion hath been eſtabliſhed, which prevents any diſputes on the death of kings: that is to ſay, by ſubſtituting the inconvenience of regencies to that of elections, an apparent tranquillity is preferred to a wiſe adminiſtration; and it is thought better to run the riſk of having the throne ſupplied by children, monſters, and ideots, than to have any diſpute about the choice of good kings. It is not conſidered, that in expoſing a ſtate to the riſk of ſuch an alternative, almoſt every chance is againſt it.

Almoſt every thing conſpires to deprive a youth, educated to the command over others, of the principles of reaſon and juſtice. Great pains, it is ſaid, are taken to teach young princes the art of

of reigning; it does not appear however that they profit much by their education. It would be better to begin by teaching them ſubjection. The greateſt monarchs that have been celebrated in hiſtory, are thoſe who were not educated to govern. This is a ſcience of which thoſe know the leaſt who have been taught the moſt, and is better acquired by ſtudying obedience than command. *Nam utilliſſimus idem ac breviſſimus bonarum malarumque rerum delectus, cogitare quid aut nolueris ſub alio principe aut volueris.*

A conſequence of this want of coherence, is the inconſtancy of regal government, which is ſometimes purſued on one plan, and ſometimes on another, according to the character of the prince who governs, or of thoſe who hold the reins of adminiſtration for him; ſo that its conduct is as inconſiſtent as the object of its purſuit is wavering. It is this inconſtancy which keeps the ſtate ever fluctuating from maxim to maxim, and from project to project; an uncertainty which does not take place in other kinds of government, where the prince is always the ſame. Thus we ſee, in general, that if there be more cunning in a court, there is more true

wiſdom in a ſenate; and that republics accompliſh their ends, by means more conſtant and better purſued: while on the contrary, every revolution in the miniſtry of a court, produces one in the ſtate: it being the conſtant maxim with all miniſters, and almoſt with all kings, to engage in meaſures directly oppoſite to thoſe of their immediate predeceſſors. Again, it is from this very incoherence that we may deduce the ſolution of a ſophiſm very common with regal politicians; and this is not only the practice of comparing the civil government of ſociety to the domeſtic government of a family, and the prince to the father of it, (an error already expoſed) but alſo that of liberally beſtowing on the reigning magiſtrate all the virtues he ſtands in need of, and of ſuppoſing the prince always ſuch as he ought to be. With the help of this ſuppoſition, indeed, the regal government is evidently preferable to all others, becauſe it is inconteſtably the ſtrongeſt; and nothing more is required to make it alſo the beſt, than that the will of the prince ſhould be conformable to the general will of the people.

But if, according to Plato, the king by nature is ſo very rare a perſonage, how ſeldom may we ſuppoſe nature and fortune hath concurred to crown him? If a regal education alſo

alſo neceſſarily corrupts thoſe who receive it, what hopes can we have from a race of men thus educated? It is a wilful error, therefore, to confound a regal government in general with the government of a good king. But, to ſee what this ſpecies of government is in itſelf, it muſt be conſidered under the direction of weak and wicked princes: for ſuch they generally are when they come to the throne, or ſuch the throne will make them. Theſe difficulties have not eſcaped the notice of ſome writers, but they do not ſeem to have been much embarraſſed by them. The remedy, ſay they, is to obey without murmuring. God ſends us bad things in his wrath, and we ought to bear with them as chaſtiſements from on high. This way of talk is certainly very edifying; but I conceive it would come with greater propriety from the pulpit, than from the pen of a politician. What ſhould we ſay of a phyſician who might promiſe miracles, and whoſe whole art ſhould conſiſt in preaching up patience and reſignation? It is obvious enough that we muſt bear with a bad government, when we live under it; the queſtion is to find a good one.

CHAP. VII.

Of mixed Governments.

THERE is no ſuch thing, properly ſpeaking, as a ſimple government. Even a ſole chief muſt have inferior magiſtrates, and a popular government a chief. Thus in the diſtribution of the executive power there is always a gradation from the greater number to the leſs, with this difference that ſometimes the greater number depends on the leſs, and at others the leſs on the greater.

Sometimes indeed the diſtribution is equal, either when the conſtituent parts depend mutually on each other, as in the Engliſh government; or when the authority of each part is independent, though imperfect, as in Poland. This laſt form is a bad one, becauſe there is no union in ſuch a government, and the ſeveral parts of the ſtate want a due connection.

It is a queſtion much agitated by politicians; Which is beſt, a ſimple or mixt government? The ſame anſwer however might be given to it, as

as I have before made to the like queſtion concerning the forms of government in general.

A ſimple government is the beſt in itſelf, though for no other reaſon than that it is ſimple. But when the executive power is not ſufficiently dependent on the legiſlative, that is to ſay, when there is a greater diſproportion between the prince and the ſovereign, than between the people and the prince, this defect muſt be remedied by dividing the government; in which caſe all its parts would have no leſs authority over the ſubject, and yet their diviſion would render them collectively leſs powerful to oppoſe their ſovereign.

The ſame inconvenience is prevented alſo by eſtabliſhing a number of inferior magiſtrates, which tend to preſerve a ballance between the two powers, and to maintain their reſpective prerogatives. In this caſe, however, the government is not properly of a mixt kind; it is only moderated.

The like means may alſo be employed to remedy an oppoſite inconvenience, as when a government is too feeble, by erecting of proper

tribunals to concentrate its force. This method is practiſed in all democracies. In the firſt caſe, the adminiſtration is divided in order to weaken it, and in the ſecond to enforce it: For a *maximum* both of ſtrength and weakneſs, is equally common to ſimple governments, while thoſe of mixt forms always give a mean proportional to both.

CHAP. VIII.

That every form of government is not equally proper for every country.

AS liberty is not the produce of all climates, ſo it is not alike attainable by all people. The more one reflects on this principle, eſtabliſhed by Monteſquieu, the more ſenſible we become of its truth. The more it is conteſted, the more we find it confirmed by new proofs.

Under every kind of government, the political perſonage, the public, conſumes much, but produces nothing. Whence then doth it derive the ſubſtance conſumed? Evidently from the labour of its members. It is from the ſuperfluity of individuals that the neceſſities of the public are provided. Hence it follows that

that a ſocial ſtate cannot ſubſiſt longer than the induſtry of its members continues to produce ſuch ſuperfluity.

The quantity of this ſuperfluity, however, is not the ſame in all countries. It is in many very conſiderable, in ſome but moderate, in others null, and again in others negative. The proportion depends on the fertility of the climate, the ſpecies of labour required in the cultivation of the ſoil, the nature of its produce, the ſtrength of its inhabitants, the conſumption neceſſary to their ſubſiſtence, with many other ſimilar circumſtances.

On the other hand, all governments are not of the ſame nature; ſome devour much more than others, and their difference is founded on this principle, viz. that the farther public contributions are removed from their ſource, the more burthenſome they grow. It is not by the quantity of the impoſition that we are to eſtimate the burthen of it, but by the time or ſpace taken up in its returning back to the hands from which it is exacted. When this return is quick and eaſy, it matters little whether ſuch impoſition be ſmall or great; the people are

always rich, and the finances in good condition. On the contrary, however low a people be taxed, if the money never returns, they are ſure by conſtantly paying to be ſoon exhauſted; ſuch a ſtate can never be rich, and the individuals of it muſt be always beggars.

It follows hence that the farther the people are removed from the ſeat of government, the more burthenſome are their taxes: thus in a democracy their weight is leaſt felt: in an ariſtocracy they fall more heavy; and in a monarchical ſtate they have the greateſt weight of all. Monarchy, therefore, is proper only for opulent nations; ariſtocracy for middling ſtates; and a democracy for thoſe which are mean and poor.

In fact, the more we reflect on this circumſtance, the more plainly we perceive the difference in this reſpect between a monarchical and a free ſtate. In the latter, all its force is exerted for the public utility; in the former, the public intereſt of the ſtate and the private intereſt of the prince are reciprocally oppoſed; the one increaſing by the decreaſe of the other.

In

In a word, inſtead of governing ſubjects in ſuch a manner as to make them happy, deſpotiſm makes them miſerable, in order to be able to govern them at all.

Thus may we trace in every climate thoſe natural cauſes, which point out that particular form of government which is beſt adapted to it, as well as even the peculiar kind of people that ſhould inhabit it. Barren and ungrateful ſoils, whoſe produce will not pay for the labour of cultivation, would remain uncultivated and uninhabited, or, at beſt, would be peopled only with ſavages. Thoſe countries from which the inhabitants might draw the neceſſaries of life, and no more, would be peopled by barbarians, among whom the eſtabliſhment of civil polity would be impoſſible. Such places as might yield to their inhabitants a moderate ſuperfluity, would be beſt adapted to a free people; while the country where fertile plains and plenteous vales more bounteouſly reward the labours of the cultivator, would beſt ſuit with a monarchical form of government, in order that the luxury of the prince might conſume the ſuperfluity of the ſubjects: for it is much better that this ſuperfluity ſhould be expended by government than diſſipated by individuals. I am not inſenſible that ſome exceptions

ceptions might be made to what is here advanced; theſe very exceptions, however, ſerve to confirm the general rule, in that they are ſooner or later conſtantly productive of revolutions, which reduce things to their natural order.

We ſhould always make a diſtinction between general laws, and thoſe particular cauſes which may diverſify their effects. For, though the ſouthern climates ſhould be actually filled with republics, and the northern with deſpotic monarchies, it would be nevertheleſs true in theory, that, ſo far as climate is concerned, deſpotiſm agrees beſt with an hot, barbariſm with a cold, and good polity with a temperate region. I am aware farther that, even granting the principle, the application of it may be diſputed. It may be ſaid, that ſome cold countries are very fertile, while others more warm and ſouthern are very barren. This objection, however, hath weight only with ſuch as do not examine the matter in every point of view. It is requiſite to take into conſideration, as I before obſerved, the labour of the people, their ſtrength, their conſumption, with every other circumſtance that affects the point in queſtion.

Let

Let us ſuppoſe two countries of equal extent, the proportion of whoſe product ſhould be as five to ten. It is plain that, if the inhabitants of the firſt conſume four, and of the latter nine, the ſuperfluity of the one would be $\frac{1}{5}$, and that of the other $\frac{1}{9}$. Their different ſuperfluities being alſo in an inverſe ratio to that of their produce, the territory whoſe produce ſhould amount only to five, would have near double the ſuperfluity of that which ſhould amount to ten.

But the argument does not reſt upon a double produce; nay I doubt whether any perſon will place the actual fertility of cold countries in general, in a bare equality with that of warmer climates. We will ſuppoſe them, however, to be in this reſpect ſimply equal; ſetting England, for inſtance, on a balance with Sicily, and Poland with Egypt. Still farther to the South we have Africa and the Indies, and to the North hardly any thing. But to effect this equality in the produce, what a difference in the labour of cultivation! In Sicily they have nothing more to do than barely turn up the earth: in England agriculture is extremely toilſome and laborious. Now, where a greater number of hands

hands is required to raiſe the ſame produce, the ſuperfluity muſt neceſſarily be leſs.

Add to this, that the ſame number of people conſume much leſs in a warm country than in a cold one. An hot climate requires men to be temperate, if they would preſerve their health. Of this the Europeans are made ſenſible, by ſeeing thoſe who do not alter their manner of living in hot countries, daily carried off by dyſenteries and indigeſtion. Chardin repreſents us, as beaſts of prey, as mere wolves in compariſon of the Aſiatics; and thinks thoſe writers miſtaken, who have attributed the temperance of the Perſians, to the uncultivated ſtate of their country. His opinion is that their country was ſo little cultivated, becauſe the inhabitants required ſo little for their ſubſiſtence. If their frugality were merely the effect of the barrenneſs of their country, he obſerves, it would be only the poorer ſort of them that ſhould eat little; whereas their abſtinence is general. Again, they would in ſuch caſe be more or leſs abſtemious in different provinces, as thoſe provinces differed in degrees of ſterility; whereas their ſobriety is general, and prevails equally throughout the kingdom. He tells us,

us, alſo, that the Perſians boaſt much of their manner of living; pretending their complexions only to be a ſufficient indication, of its being preferable to that of the Chriſtians. At the ſame time, he admits that their complexions are very fine and ſmooth; that their ſkin is of a ſoft texture, and poliſhed appearance; while, on the other hand, the complexion of the Armenians, their ſubjects, who live after the European manner, is rough and pimply, and their bodies groſs and unwieldy.

The nearer we approach to the line, it is certain, the more abſtemious we find the people. They hardly ever eat meat; rice and maize are their ordinary food. There are millions of people in the Indies, whoſe ſubſiſtence does not amount to the value of a penny a day. We ſee even in Europe, a very ſenſible difference, in this reſpect, between the inhabitants of the North and South. A Spaniard will ſubſiſt a whole week, on what a German would eat up at a ſingle meal. In countries where the people are voracious, even luxury hath a tendency to conſumption. Thus in England it diſplays itſelf in the number of diſhes and quantity of ſolid meat on the table; while in Italy, a repaſt

paſt is furniſhed out with ſweetmeats and flowers.

The luxury of dreſs preſents us, alſo, with ſimilar differences. In climates, where the change of the weather is ſudden and violent, the people wear better and plainer clothes; while in thoſe where the inhabitants dreſs only for ornament, brilliancy is more conſulted than uſe; even clothes themſelves are an article of luxury. Thus at Naples, you will daily ſee gentlemen walking about in laced clothes without ſtockings. It is the ſame with regard to buildings: magnificence only is conſulted, where nothing is to be feared from the inclemencies of the weather. At Paris and London people are deſirous of warm and commodious apartments. At Madrid, they have ſuperb ſaloons, but no ſaſhes nor caſements; and their beds lie open to the rats that harbour in the roof.

The aliment is alſo more ſubſtantial and nouriſhing in hot countries than in cold; this is a third difference that cannot fail to have an influence over the ſecond. Wherefore is it that the Italians eat ſuch a quantity of vegetables? Becauſe they are good, and of an excellent ſavour. In France,

where

where they are themſelves nouriſhed chiefly by water, they are leſs nutritive, and are held of little conſequence. They occupy nevertheleſs as much ground, and coſt as much pains to cultivate them. It hath been experimentally proved that the corn of Barbary, in other reſpects inferior to that of France, gives a greater quantity of meal, and that the French corn yields ſtill more than that of the North. Hence it may be inferred that a ſimilar gradation is carried on in the ſame direction from the line to the pole. Now is it not an evident diſadvantage to have, in an equal produce, a leſs quantity of aliment?

To all theſe different conſiderations, I may add another, which ariſes from, and ſerves to confirm them; this is, that hot countries require fewer inhabitants than the cold, and yet afford ſubſiſtence for more; a circumſtance that cauſes a two-fold ſuperfluity, always to the advantage of deſpotiſm. The more the ſame number of people are diſtributed over the face of a large territory, the more difficult becomes a revolt; as they cannot meet together ſo readily or ſecretly, and it is always eaſy for the government to cut off their aſſociations, and ruin their projects.

jects. On the other hand, the more a numerous people are collected together, the less can the government assume over the sovereign; the chiefs of a faction may deliberate as securely at their meetings, as the prince in his council; and the mob are as readily assembled in the public squares as the troops in their quarters. It is the advantage of a tyrannical government, therefore, to act at great distances; its force increasing with the distance like that of a lever *, by the assistance of a proper center. That of the people, on the contrary, acts only by being concentrated; it evaporates and loses itself when dilated, even as gunpowder scattered on the ground, takes fire, particle by particle, and is productive of no effect. Countries thinly in-

* This doth not contradict what is advanced in Chap. ix. Book II. concerning the inconvenience of great states; the matter in question there being the authority of the government over its members, and here of its influence over the subjects. Its members, scattered about in different places, serve as points of support to enable it to act at a distance on the people; but it hath no such props to assist its action on its members themselves. Thus in one case the length of the lever is the cause of its strength, and in the other of its weakness.

habited are the moſt proper places for tyrants; wild beaſts reign only in deſarts.

CHAP. IX.

Of the marks of a good Government.

WHEN it is aſked, therefore, in general terms, what is the beſt form of government? the queſtion is as indeterminate as unanſwerable: or rather it may be reaſonably anſwered as many different ways as there are poſſible combinations of the abſolute and relative circumſtances of a people.

But if it be aſked, by what ſigns it may be known whether any given people are well or ill governed? This is quite another thing, and the queſtion, as to the fact, is to be reſolved.

This queſtion, however, is never actually reſolved, becauſe every one is for doing it after his own manner. The ſubject cries up the public tranquillity, the citizen the liberty of individuals; the one prefers the ſecurity of property, the other that of his perſon; the one maintains the beſt government to be the moſt ſevere, the other affirms that to be beſt which is moſt agreeable;

able; the latter is for punishing crimes, the former for preventing them: the one thinks it a fine thing to be dreaded by his neighbours; the other thinks it better to be unknown to them; the one is satisfied if money does but circulate, the other requires the people should have bread. Were they even agreed also on these and other similar points, they would not be much nearer the end of the dispute. Moral quantities are deficient in point of precision; so that, were men agreed on the sign, they would still differ about its estimation.

For my part, I am astonished that a sign so very simple should be mistaken, or that any should be so disingenuous as not to acknowlege it. What is the end of political society? doubtless the preservation and prosperity of its members. And what is the most certain sign or proof of these? Certainly it is their number and population. Let us not look elsewhere, then, for this disputed proof; since it is plain, that government must be the best, under which the citizens increase and multiply most, supposing all other circumstances equal, and no foreigners naturalized or colonies introduced, to cause such increase: and that, on the contrary

contrary, that government muſt be the worſt, under which, *cæteris paribus*, the number of people ſhould diminiſh. This being admitted, the deciſion of the queſtion becomes an affair of calculation *, and as ſuch I give it up to the arithmeticians.

CHAP.

* It is on the ſame principle that we ought to judge of the ſeveral periods of time that deſerve the preference, in being diſtinguiſhed for the proſperity of mankind. We have in general too much admired thoſe, in which literature and the fine arts have flouriſhed, without penetrating into the ſecret cauſe of their cultivation, or duly conſidering their fatal effects; *idque apud imperitos humanitas vocabatur, cum pars ſervitutis eſſet.* Shall we never be able to ſee through the maxims laid down in books, the intereſted motives of their authors?—No, let writers ſay what they will, whenever the inhabitants of a country decreaſe, it is not true that all things go well, whatever be its external proſperity and ſplendour: A poet poſſeſſed of an hundred thouſand livres a year, does not neceſſarily make the age he lives in the beſt of all others. We ſhould not ſo much regard the apparent repoſe of the world, and the tranquillity of its chiefs, as the well-being of whole nations, and particularly of the moſt populous ſtates. A ſtorm of hail may lay waſte ſome few provinces, but it ſeldom cauſes a famine. Temporary tumults and civil

CHAP. X.

Of the abuſe of government, and its tendency to degenerate.

AS the particular will of the prince acts conſtantly againſt the general will of the people, the government neceſſarily makes a continual effort againſt the ſovereignty. The greater this effort is, the more is the conſtitution altered; and as in this caſe there is no other diſtinct Will to keep that of the prince in equilibrio, it muſt ſooner or later infallibly happen that

civil wars may give much diſturbance to rulers; but they do not conſtitute the real misfortunes of a people, who may even enjoy ſome reſpite, while they are diſputing who ſhall play the tyrant over them. It is from their permanent ſituation that their real proſperity or calamity muſt ariſe: when all ſubmit tamely to the yoke, then it is that all are periſhing; then it is that their chiefs, deſtroying them at their eaſe, *ubi ſolitudinem faciunt pacem appellant.* When the intrigues of the nobility agitated the kingdom of France, and the coadjutor of Paris carried a poignard in his pocket to parliament; all this did not hinder the bulk of the French nation from growing numerous and en-

that the prince will oppreſs the ſovereign, and break the ſocial compact. This is an inherent and unavoidable defect, which from the very birth of the political body, inceſſantly tends to its diſſolution, even as old age and death tend to the diſſolution of the natural body.

There are two general methods according to which a government degenerates; viz. when it contracts itſelf, or when the ſtate is diſſolved. The government contracts itſelf, when its members are reduced from a great number to a few; that is to ſay, from a democracy to an ariſtocracy, and from an ariſtocracy to a royalty.

enjoying themſelves in happineſs and eaſe. Ancient Greece flouriſhed in the midſt of the moſt cruel wars: human blood was ſpilt in torrents, and yet the country ſwarmed with inhabitants. It appears, ſays Machiavel, that, in the midſt of murders, proſcriptions and civil wars, our republic became only the more powerful, the virtue of the citizens, their manners, their independence had a greater effect to ſtrengthen it, than all its diſſentions had to weaken it. A little agitation gives vigour to the mind, and liberty, not peace, is the real ſource of the proſperity of our ſpecies.

This is its natural tendency *. Should it make a retrogreſſive change, by having the number of

* The ſlow formation and progreſs of the republic of Venice, preſent a notable example of this ſucceſſion; and it is very ſurpriſing that in the ſpace of 1200 years the Venetians ſhould be got no farther than to the ſecond term, which began in the year 1198. With regard to the ancient dukes, with which their conſtitution is reproached, it is certain, whatever ſome writers may ſay, that they were not ſovereigns.

The Roman republic will, doubtleſs, be made an objection, as having taken a contrary route, in its progreſs from monarchy to ariſtocracy, and from ariſtocracy to democracy. I am, however, far from thinking this was the real caſe.

The firſt eſtabliſhment of Romulus was a mixt government, which degenerated preſently into deſpotiſm. From very particular cauſes the ſtate periſhed before its time, as a new born infant, before it attained the age of manhood. The expulſion of the Tarquins, was the true era of the riſe of that republic; although it did not aſſume at firſt a determinate form; becauſe the work was but half done, in not having aboliſhed the order of patricians. For hence, an hereditary ariſtocracy, the worſt of all adminiſtrations,

of its members increaſed, it might be ſaid to relax or dilate itſelf; but this inverſe progreſs is impoſſible.

In fact, a government never changes its form, except its ſpring of action be too much worn to ſupport its own. Now, if it relaxes ſtill more, by being extended, its force becomes abſolutely nothing,

ſtrations, acting in oppoſition to the democracy, the form of government remained indeterminate; not being fixed, as Machiavel obſerves, till the eſtabliſhment of the tribunes; when, and not before, it was a real government under the form of a true democracy. In fact, the people were then not only ſovereign, but alſo magiſtrate and judge; the ſenate being a tribunal of an inferior order, formed to temper and collect the government; while even the conſuls themſelves although patricians, firſt magiſtrates, and as generals abſolute in the field, yet at Rome they were only preſidents of the aſſemblies of the people.

From this time it is evident the government followed its natural byaſs, and tended ſtrongly toward ariſtocracy. The patrician order dying away of itſelf, the ariſtocracy ſubſiſted no longer in the members of that body, as at Venice and Genoa, but in the body of the ſenate compoſed of Patricians and Plebeians, and even in the body of tribunes when they

nothing, and is ſtill leſs capable of ſupporting itſelf. It is neceſſary therefore to wind up and renew ſuch ſpring in proportion as it gives way; otherwiſe the ſtate it is intended to ſupport, muſt neceſſarily fall.

The diſſolution of the ſtate indeed may happen two ways. Firſt, when the prince does not govern according to law; but arrogates the ſovereign power to himſelf: in which caſe he effects a remarkable change, whereby not the government, but the ſtate itſelf is contracted. What I mean to ſay is, that the great ſtate is thence diſſolved, and that he forms another within it, compoſed only of the members of the government, who are only the maſters and tyrants over the reſt of the people. So

began to uſurp an active power. For words make no alteration in things. When the people have chiefs who govern in their ſtead, whatever denomination be given to thoſe chiefs, the government is always an ariſtocracy. From the abuſe of the ariſtocratical form, aroſe the civil wars and the triumvirate. Sylla, Julius Cæſar and Auguſtus indeed became real monarchs, and at length under the deſpotiſm of Tiberius the ſtate was finally diſſolved. The Roman hiſtory, therefore, doth not tend to diſprove my principle, but to confirm it.

that

that when the government uſurps the ſovereignty, at that inſtant the ſocial compact is broken, and the individuals, who were citizens before, are reſtored to the rights of natural liberty, and are compelled, not legally obliged, to obedience.

It is the ſame thing, when the members of government aſſume ſeparately the power they are entitled to exerciſe only collectively; which is no leſs an infringement of the laws, and is productive of ſtill worſe conſequences. For, in this caſe, there may be ſaid to be as many princes as magiſtrates; while the ſtate no leſs divided than the government, is totally diſſolved or changes its form.

When the ſtate is diſſolved, the abuſe of government, of whatever nature it be, takes the common name of anarchy. To diſtinguiſh more nicely, *democracy* is ſaid to degenerate into *ochlocracy*; *ariſtocracy* into *oligarchy*; and I may add *monarchy* into *tyranny*: but this laſt term is equivocal, and requires ſome explanation. In the vulgar ſenſe of the word, a tyrant is a king who governs by force and without regard to juſtice or the laws. In the more preciſe and determinate ſenſe, it means any indi-

vidual who aſſumes the royal authority, without having a right to it. In this latter ſenſe the Greeks underſtood the word tyrant; and give it indiſcriminately both to good and bad princes whoſe authority was not legal *. Thus, *tyrant* and *uſurper* are two words perfectly ſynonimous.

To give different names, however, to different things, I call the uſurpation of regal authority, *tyranny*, and that of ſovereign power *deſpotiſm*. The tyrant is he, who takes upon himſelf, contrary to law, to govern according to law; and the deſpotic chief, one who places himſelf above the laws themſelves. Thus a tyrant cannot be deſpotic, though a deſpotic prince muſt always be a tyrant.

* *Omnes enim et habentur et dicuntur tyranni qui poteſtate utuntur perpetuâ, in eâ civitate quæ libertate uſa eſt.* CORN. NEPOS. IN MILTIADE. It is true that Ariſtotle makes a diſtinction between the tyrant and king, in that the one governs for his own good, and the other for the good of his ſubjects: but, beſides that all the Greek writers uſe the word tyrant in a different ſenſe, as appears particularly by the Hieron of Zenophon, it would follow from Ariſtotle's diſtinction that no king ever exiſted on the face of the earth.

CHAP. XI.

Of the diſſolution of the body politic.

SUCH is the natural and unavoidable tendency of even the beſt conſtituted governments. If Rome and Sparta periſhed, what ſtate can hope to laſt for ever? In our endeavours to form a durable eſtabliſhment, we muſt not think, therefore, to make it eternal. If we would hope to ſucceed, we muſt not attempt impoſſibilities, nor flatter ourſelves to give that permanency to human inſtitutions, which is incompatible with their nature.

The body politic, as well as the phyſical, begins to die at its birth, and bears in itſelf the cauſes of its deſtruction. Both, however, may poſſeſs a conſtitution more or leſs robuſt, and adapted to different periods of duration. The conſtitution of man is the work of nature; that of the ſtate, is the work of art. It doth not depend on men to prolong their lives, but it depends on them to prolong that of the ſtate as much as poſſible, by giving it a conſtitution the beſt adapted to longevity. The moſt perfect conſtitution, it is true, will have an end;

but ſtill ſo much later than others, if no unforeſeen accident bring it to an untimely diſſolution.

The principle of political life, lies in the ſovereign authority. The legiſlative power is the heart of the ſtate; the executive power is the brain, which puts every part in motion. The brain may be rendered uſeleſs by the palſy, and yet the individual ſurvive. A man may become an inſenſible driveller and yet live: but as ſoon as the heart ceaſes to beat, the animal is dead.

The ſtate doth not ſubſiſt by virtue of the laws, but by the legiſlative power. The ſtatutes of yeſterday are not in themſelves neceſſarily binding to day, but the tacit confirmation of them is preſumed from the ſilence of the legiſlature; the ſovereign being ſuppoſed inceſſantly to confirm the laws not actually repealed. Whatever is once declared to be the will of the ſovereign, continues always ſo, unleſs it be abrogated.

Wherefore, then, is there ſo much reſpect paid to ancient laws? Even for this reaſon. It is rational to ſuppoſe, that nothing but the ex-

excellence of the ancient laws, could preſerve them ſo long in being; for that, if the ſovereign had not found them always ſalutary and uſeful, they would have been repealed.

Hence we ſee that the laws, inſtead of loſing their force, acquire additional authority by time, in every well formed ſtate; the prepoſſeſſion of their antiquity renders them every day more venerable; whereas, in every country where the laws grow obſolete and loſe their force as they grow old, this alone is a proof that the legiſlative power itſelf is decayed, and the ſtate extinct.

CHAP. XII.

By what means the ſovereign authority is maintained.

THE ſovereign, having no other force than the legiſlative power, acts only by the laws; while the laws being only the authentic acts of the general will, the ſovereign cannot act unleſs the people are aſſembled. The people aſſemble! you will ſay. What a chimera?—It is indeed chimerical at preſent; though it was not reckoned ſo two thou-

ſand years ago. Are mankind changed in their nature ſince that time?

The bounds of poſſibility in moral affairs are leſs confined than we are apt to imagine: It is our foibles, our vices, our prejudices that contract them. Mean ſouls give no credit to the ſentiments of heroic minds; while ſlaves affect to turn the notion of liberty, into ridicule.

By what hath been done, however, we may judge of what may be done again. I ſhall not ſpeak of the petty repnblics of ancient Greece; but the Roman republic was, undoubtedly, a great ſtate, and the city of Rome a great city. By the laſt regiſter of the citizens of Rome, their number amounted to four hundred thouſand perſons capable of bearing arms; and the laſt regiſter of the Empire amounted to more than four millions of citizens, without reckoning ſubjects, women, children or ſlaves.

How very difficult, you will ſay, muſt it have been, to aſſemble frequently the people of that capital and its environs? And yet hardly a week paſſed in which the Roman people were not aſſembled, and on ſome occaſions ſeveral times a week.

a week. This numerous body indeed not only exercised the functions of sovereignty, but also in some cases those of government. They sometimes deliberated on state affairs, and at others decided in judicial causes; the whole people being publicly assembled almost as frequently in the capacity of magistrates as citizens.

By recurring to the primitive state of nations, we shall find that most of the ancient governments, even the monarchical, as that of the Macedon and others, had the like popular assemblies. Be this, however, as it may, the fact being once incontestibly proved, obviates all difficulties; for, to deduce the possibility of a thing from its having actually happened, will admit of no objection.

CHAP. XIII.

The ſubject continued.

IT is not enough, however, that the people once aſſembled ſhould fix the conſtitution of the ſtate, by giving their ſanction to a certain code or ſyſtem of laws: it is not enough that they ſhould eſtabliſh a perpetual government, or provide once for all by the election of magiſtrates. Beſides the extraordinary aſſemblies, which unforeſeen accidents may require, it is neceſſary they ſhould have certain fixed and periodical meetings, which nothing might aboliſh or prorogue: ſo that the people ſhould, on a certain day, be legally ſummoned by law, without any expreſs ſtatute being required for their formal convocation.

But, excepting theſe regular aſſemblies, rendered legal by the date, all others, unleſs convoked by the proper magiſtrate previouſly appointed to that end, agreeable to preſcribed forms, ſhould be held illegal, and all their determinations declared null and void; becauſe the very manner of the people's aſſembling ſhould be determined by law.

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As to the frequency of legal aſſemblies, it depends on ſo many different conſiderations, that it is impoſſible to lay down any preciſe rules on this head. It can only be ſaid in general that the more powerful the government, the more often ought the ſovereignty to diſplay itſelf.

All this, it may be ſaid, is very well for a ſingle town or city; but what muſt be done in a ſtate comprehending ſeveral cities? Muſt the ſovereign authority be diſtributed, or ought it to centre in one, to the total ſubjection of the reſt?

I anſwer, neither one nor the other. In the firſt place, the ſovereign authority is ſimple and uniform, ſo that it cannot be divided without deſtroying it. In the next place, one city cannot be legally ſubject to another, any more than one nation to another; becauſe the eſſence of the body politic conſiſts in the union of obedience and liberty, and in the terms *ſubject* and *ſovereign* being thoſe identical correlatives, the ideas of which are united in the ſingle term *citizen*.

I anſwer

I anſwer farther, that it is fundamentally wrong, to unite ſeveral towns to form one city; and that ſuch union being made, the natural inconveniences of it muſt enſue. The abuſes peculiar to great ſtates muſt not be made objections to the ſyſtem of one, who maintains the excluſive propriety of little ones. But how, it will be ſaid, can little ſtates be made powerful enough to reſiſt the great?—Even as the cities of ancient Greece were able to reſiſt the arms of a powerful monarch; and, as in more modern times, Switzerland and Holland, have reſiſted the power of the houſe of Auſtria.

In caſes, alſo, where the ſtate cannot be reduced within proper bounds, there remains one reſource; and this is by not permitting the exiſtence of a capital, but removing the ſeat of government from one town to another, and aſſembling the ſtates of the country in each alternately.

People a country equally in every part; diffuſe the ſame privileges and advantages throughout; and the ſtate will become at once the ſtrongeſt and the beſt governed. Remember that the walls of cities are founded on the ruins of the villages, and that the ſplendid palaces

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in town are raiſed at the expence of miſerable cottages in the country.

CHAP. XIV.

Subject continued.

NO ſooner are the people legally aſſembled, in a ſovereign body, than the juriſdiction of government ceaſes, the executive power of the ſtate is ſuſpended, and the perſon of the meaneſt citizen becomes as ſacred and inviolable as the greateſt magiſtrate; becauſe when the body repreſented appears, it is not requiſite that the repreſentatives of it ſhould exiſt. Moſt of the tumults which happened in the *Comitia* at Rome, were owing to the general ignorance or neglect of this rule. On thoſe occaſions, the conſuls were only preſidents of the aſſembly of the people, the tribunes merely orators *, and the ſenate abſolutely nothing.

Theſe intervals of ſuſpenſion, when the prince acknowleges, or at leaſt ought to ac-

* Nearly in the ſenſe given to thoſe who ſpeak on any queſtion in the parliament of England. The reſemblance of their employments ſet the conſuls and tribunes together by the ears; even when their juriſdiction was ſuſpended.

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knowlege an actual ſuperior, have been always formidable, while ſuch formidable aſſemblies, the ſecurity of the body politic and the reſtraint of government, have been held in honour by the chiefs: ſo that they never have been ſparing of pains, in raiſing objections and difficulties, or of making fair promiſes in order to diſguſt the citizens with ſuch meetings. When the latter, therefore, have been avaritious, mean, or cowardly, preferring their caſe to liberty, they have not been able to withſtand long the repeated efforts of government: and thus it is that, this encroaching power inceſſantly augmenting, the ſovereignty becomes totally extinct, and thus moſt cities come to an untimely end.

Sometimes, however, there is introduced between ſovereign authority and arbitrary government, a mean term of power, of which it is neceſſary to treat.

CHAP.

CHAP. XV.

Of deputies or repreſentatives.

WHEN the ſervice of the public ceaſes to be the principal concern of the citizens, and they had rather diſcharge it by their purſes than their perſons, the ſtate is already far advanced toward ruin. When they ſhould march out to fight, they pay troops to fight for them, and ſtay at home. When they ſhould go to council, they ſend deputies, and ſtay at home. Thus, in conſequence of their indolence and wealth, they in the end employ ſoldiers to enſlave their country, and repreſentatives to betray it.

It is the buſtle of commerce and the arts; it is the ſordid love of gain, of luxury and eaſe, that thus convert perſonal into pecuniary ſervices. Men readily give up one part of their profit, to increaſe the reſt unmoleſted. But ſupply an adminiſtration with money, and they will preſently ſupply you with chains. The very term of *taxes* is ſlaviſh, and unknown in a free city. In a ſtate truly free, the citizens diſcharge their duty to the public with their own

own hands, and not by money. So far from paying for being exempted from ſuch duty, they would pay to be permitted to diſcharge it themſelves. I am very far from adopting received opinions, and think the ſervices exacted by force a leſs infringement of liberty than taxes.

The better the conſtitution of a ſtate, the greater influence have public affairs over private, in the minds of the citizens: They will have, alſo, much fewer private affairs to concern them; becauſe the ſum total of their common happineſs, furniſhing a more conſiderable portion to each individual, there remains the leſs for each to ſeek from his own private concerns. In a city well governed, every one is ready to fly to its public aſſemblies; under a bad government they are careleſs about going thither at all; becauſe no one intereſts himſelf in what is doing there; it is known that the general will does not influence them, and hence at length domeſtic concerns engage all their attention. Good laws tend to the making better, while bad ones are introductory of Worſe. No ſooner doth a citizen ſay, what are ſtate-affairs to me? than the ſtate may be given up for loſt.

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It is this want of public ſpirit, the influence of private intereſt, the extent of ſtates, conqueſts and abuſes in government, that have given riſe to the method of aſſembling the people by deputies and repreſentatives. The aſſembly of theſe repreſentatives is called in ſome countries, the third eſtate of the nation; ſo that the particular intereſts of the two orders are placed in the firſt and ſecond rank, and the public intereſt only in the third.

The ſovereignty, however, cannot be repreſented, and that for the ſame reaſon that it cannot be alienated. It conſiſts eſſentially of the general will, and the will cannot be repreſented: it is either identically the ſame, or ſome other; there can be no mean term in the caſe. The deputies of the people, therefore, neither are nor can be their repreſentatives; they are only mere commiſſioners, and can conclude definitively on nothing. Every law that is not confirmed by the people in perſon is null and void; it is not in fact a law. The Engliſh imagine they are a free people; they are however miſtaken: they are ſuch only during the election of members of parliament. When theſe are choſen, they become ſlaves again; and indeed they make ſo bad a uſe of the few

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tranſitory moments of liberty, that they richly deſerve to loſe it.

The notion of repreſentatives is modern; deſcending to us from the feudal ſyſtem, that moſt iniquitous and abſurd form of government, by which human nature was ſo ſhamefully degraded. In the ancient republics, and even monarchies, the people had no repreſentatives; they were ſtrangers to the term. It is even very ſingular that, at Rome, where the Tribunes were ſo much revered, it was never imagined they could uſurp the functions of the people; and as ſtrange that they never once attempted it. One may judge, however, of the embarraſſment ſometimes cauſed by the multitude, by what happened in the time of the Gracchi, when part of the citizens gave their votes from their houſe-tops.

Where men value their liberty and privileges above every thing, inconveniences and difficulties are nothing. Among this wiſe people things were held in a proper eſtimation; they permitted the Lictors to do what they would not ſuffer the Tribunes to attempt; they were not afraid

afraid the Lictors would ever think of repreſenting them.

To explain, nevertheleſs, in what manner theſe Tribunes did ſometimes repreſent them, it will be ſufficient to conceive how government repreſents the ſovereign. The law being only a declaration of the general will, it is clear that the people cannot be repreſented in the legiſlative power; but they may, and ought to be, in the executive; which is only the application of power to law. And this makes it evident that, if we examine things to the bottom, we ſhall find very few nations that have any laws. But, be this as it may, it is certain that the Tribunes, having no part of the executive power, could not repreſent the Roman people, by virtue of their office, but only in uſurping thoſe of the ſenate.

Among the Greeks, whatever the people had to do, they did it in perſon; they were perpetually aſſembled in public. They inhabited a mild climate, were free from avarice, their ſlaves managed their domeſtic buſineſs, and their great concern was liberty. As you do not poſſeſs the ſame advantages, how can you expect

pect to preſerve the ſame privileges? Your climate being more ſevere, creates more wants *; for ſix months in the year your public ſquares are too wet or cold to be frequented; your hoarſe tongues cannot make themſelves heard in the open air; you apply yourſelves more to gain than to liberty, and are leſs afraid of ſlavery than poverty.

On this occaſion, it will probably be aſked me, if liberty cannot ſupport itſelf without the aſſiſtance of ſlavery? Perhaps not. At leaſt the two extremes approach very near. Whatever does not exiſt in nature, muſt have its conveniences, and civil ſociety ſtill more than any thing elſe. There are ſome circumſtances ſo critically unhappy that men cannot preſerve their own liberty but at the expence of the liberty of others; and in which a citizen cannot be perfectly free without aggravating the ſubjection of his ſlaves. Such was the ſituation of Sparta. As for you, ye moderns, you have no ſlaves, but are ſlaves yourſelves, and purchaſe

* To adopt in cold countries the luxury and effeminacy of the Eaſt, is to appear deſirous of ſlavery, without having the ſame excuſe for ſubmitting to it.

their

their liberty by your own. You may if you pleaſe boaſt of this preference; for my part, I find more meanneſs in it than humanity.

I do not intend, however, by this to inculcate that we ſhould have ſlaves, or that it is equitable to reduce men to a ſtate of ſlavery; having already proved the contrary. I am here only giving the reaſons why certain modern nations who imagine themſelves free, employ repreſentatives, and why the ancients did not. But let this be as it will, I affirm that when once a people make choice of repreſentatives, they are no longer free.

Every thing duly conſidered, I do not ſee a poſſibility of the ſovereign maintaining its rights, and the exerciſe of its prerogatives, for the future among us, unleſs the ſtate be indeed very ſmall. But if it be ſo very ſmall, will it not be liable to loſe its independency? No. I will make it hereafter appear in what manner the exterior power of a great people may be united with the policy and good order of a little one.

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CHAP. XVI.

That the inſtitution of government is not a compact.

THE legiſlative power being once well eſtabliſhed, we proceed to ſettle the executive power in the ſame manner: for the latter which operates only by particular acts, being eſſentially different from the other, is naturally divided from it. If it were poſſible for the ſovereign, conſidered as ſuch, to poſſeſs the executive power, the matter of right and fact would be ſo confounded, that we ſhould no longer be able to diſtinguiſh what is law and what is not; the body politic alſo being thus unnaturally ſituated, would ſoon become a prey to that violence, which it was originally inſtituted to correct.

The citizens being, by virtue of the ſocial compact, all equal, that which all may perform, all may preſcribe, whereas none can have a right to require another to do what he does not himſelf. Now it is properly this right, indiſpenſibly neceſſary to animate and put the body politic in motion, with which the ſovereign inveſts

veſts the prince in the inſtitution of government.

It has been pretended by ſome that the act forming this inſtitution, was a contract between the people and the chiefs of which they made choice: a contract in which the two parties ſtipulated the conditions on which the one obliged themſelves to command, and the other to obey. I am perſuaded every one will agree with me that this was a very ſtrange mode of contract. But let us ſee whether this opinion is in itſelf well founded.

In the firſt place the ſupreme authority can no more modify or alter its form than it can alienate itſelf; to limit or reſtrain, would be to deſtroy it. It is abſurd and contradictory to ſay the ſovereign made choice of a ſuperior: to oblige itſelf to obey a maſter, is to diſſolve its own conſtitution, and reſtore its members to their natural liberty.

Again, it is plain that ſuch a ſuppoſed contract between the people in general and certain particular perſons would be a particular act; whence it follows that it would not be a law nor

nor an act of ſovereignty, and of conſequence would be illegal.

It is farther evident, that the contracting parties would remain, reſpecting each other, ſimply under the laws of nature, without any ſecurity for the performance of their reciprocal engagements, a circumſtance totally repugnant to a ſtate of civil ſociety. The party only who might have the power, could enforce the execution of the terms; ſo that we might as well give the name of a contract, to the act of a man who ſhould ſay to another, "I give you my whole property, on condition that you will reſtore me juſt as much of it as you pleaſe."

There is but one compact in a ſtate, and that is the act of aſſociation, which alone is excluſive of every other; as it is impoſſible to imagine any ſubſequent public contract which would not be a violation of the original.

CHAP.

CHAP. XVII.

Of the inſtitution of government.

WHAT notion, then, are we to form of the act, by which government is inſtituted? In anſwer to this queſtion, I ſhall firſt remark that this act is complicated, or compoſed of two others, viz the eſtabliſhment of the law and the execution of it.

By the firſt, the ſovereign enacts that a government ſhall be eſtabliſhed in ſuch or ſuch a form; and it is clear, this being a general act, that it is a law.

By the ſecond, the people name the chiefs who are to be charged with the adminiſtration of the government ſo eſtabliſhed. Now this nomination, being a particular act, is not a ſecond law, but only a conſequence of the firſt, and in reality an act of government.

The difficulty lies in being able to comprehend how an act of government can take place before the government exiſted, and how the

people, who muſt be always either ſovereign or ſubjects, become prince or magiſtrate, in certain circumſtances.

We have here made a diſcovery of one of theſe aſtoniſhing properties of the body politic, by which it reconciles operations apparently contradictory to each other; this act being effected by a ſudden converſion of the ſovereignty into a democracy: ſo that, without any ſenſible change, and only by means of a new relation of all to all, the citizens, becoming magiſtrates, paſs from general acts to particular ones, and from enacting laws to the execution of them.

This change of relation is not a matter of mere ſpeculation, unexemplified in practice: it takes place very frequently in the parliament of England, where among the commons, the whole houſe is formed on certain occaſions, into a committee, for the better enquiry into, and diſcuſſion of the matter in hand; the members become mere commiſſioners of the ſovereign court they conſtituted but a moment before. Agreeable to which, the enquiry being ended, they make a report to themſelves, as the houſe of Commons, of their proceedings as a grand com-

committee, and deliberate anew under the former title on what they had already determined under the latter.

Such, indeed, is the peculiar advantage of a democratical government, that it is eſtabliſhed in fact by the ſimple act of the general will. After which, this proviſional government continues, if ſuch be the intended form; or eſtabliſhes, in the name of the ſovereign, the form of government adopted by law; and thus every thing proceeds according to order. It is impoſſible to inſtitute a government in any other legal manner, without renouncing the principles before eſtabliſhed.

CHAP. XVIII.

Of the means of preventing the uſurpations of government.

FROM the foregoing illuſtrations reſults the confirmation of what is aſſerted in the XVIth chapter, viz. that the act which inſtitutes government is not a contract but a law; that the depoſitories of the executive power are

not the maſters, but the ſervants of the people; that the people may appoint or remove them at pleaſure; that they have no pretence to a contract with the people, but are bound to obey them; and that in accepting the offices the ſtate impoſes on them, they only diſcharge their duty as citizens, without having any ſort of right to diſpute the conditions.

When it ſo happens, therefore, that the people eſtabliſh an hereditary government, whether monarchical, and confined to one particular family, or ariſtocratical, and divided among a certain order of citizens, they do not enter thereby into any formal engagement; they only give the adminiſtration a proviſional form, which remains legal till they think proper to change it.

It is certain that ſuch changes are always dangerous, and that a government once eſtabliſhed ſhould not be meddled with, unleſs it be found incompatible with the public good; but this circumſpection is a maxim of policy, and not a matter of right. The ſtate, however, is no more bound to reſign the civil authority

thority into the hands of its magiſtrates or chiefs, than the military authority into thoſe of its generals.

It is certain, alſo, that great care ſhould be taken to obſerve all thoſe formalities, which, in ſuch a caſe, are requiſite to diſtinguiſh a regular and legal act from a ſeditious commotion; to diſtinguiſh between the general will of a whole people and the clamours of a faction. In which latter caſe, a people are particularly obliged to give the beſt founded remonſtrances no farther countenance, than in the utmoſt ſtrictneſs of juſtice they may deſerve. Of this obligation, however, the prince may take great advantages, in order to preſerve his power in ſpite of the people, without running the riſk of being charged with uſurping it. For in appearing only to make uſe of his prerogatives, he may extend them, and under the pretence of maintaining the public peace, may prevent thoſe aſſemblies which might otherwiſe be calculated to re-eſtabliſh the good order of government: ſo that he might profit by that ſilence which he keeps from being broken, and by thoſe ir-

regularities which he himſelf might cauſe to be committed; pleading in his favour the tacit approbation of thoſe whoſe fears keep them ſilent; and puniſhing thoſe who are bold enough to ſpeak. It was thus the *decemviri*, at firſt elected for one year only, and afterwards continued for another, attempted to perpetuate the duration of their power, by preventing the *Comitia* from aſſembling as uſual; and it is by ſuch eaſy means that all the governments in the world, when once inveſted with power, uſurp ſooner or later the ſovereign authority.

Thoſe periodical aſſemblies, of which I have ſpoken above, are very proper to prevent, or protract, this misfortune, particularly when they require no formal convocation; for then the prince cannot prevent them without declaring himſelf openly a violator of the laws, and an enemy to the ſtate.

The opening of theſe aſſemblies, which have no other object than the preſervation of the ſocial contract, ought always to be made by two

two propoſitions, which can never be ſuppreſſed, and ſhould paſs ſeparately by vote.

FIRST; Whether it be the determination of the ſovereign to preſerve the preſent form of government.

SECOND; Whether it be the determination of the people to continue the adminiſtration in the hands of thoſe, who are at preſent charged with it.

It is to be obſerved, that I here take for granted, what I conceive has already been demonſtrated, viz. that there is no fundamental law in any ſtate, which ſuch ſtate cannot repeal, not excepting even the ſocial compact: for, ſhould all the citizens aſſemble with one accord to break this compact, it would undoubtedly be very legally diſſolved. Grotius even thinks that an individual may renounce the ſtate of which he is a member, and reſume his natural independence and property by leaving the country *. Now it would be very

* With this exception, however, that he does not fly, to elude his duty, and avoid ſerving his country

very abſurd to ſuppoſe that the whole body of citizens united, could not do that in concert, which any one of them might do ſeparately.

try on any emergency, when his ſervice is required. In this caſe his flight would be criminal and highly deſerving of puniſhment. It would not be a retreat but deſertion.

The END of the THIRD BOOK.

BOOK

BOOK IV.

CHAP. I.

That the general will cannot be annihilated.

SO long as a number of individuals remain perfectly united and conſider themſelves as one body, they can have but one will; which relates to their common preſervation and welfare. All the reſources of the ſtate, are then ſimple and vigorous, its political maxims clear and obvious; it comprehends no intricate and oppoſite intereſts; but that of the public is demonſtrably evident to all, and requires only the gift of common ſenſe to underſtand it. Peace, concord, and equality are enemies to political refinements. When men are honeſt, and ſimple, their very ſimplicity prevents their deception; they are not to be impoſed on by ſophiſtry, but are too artleſs even to be duped. When it is known, that, among the happieſt people in the world, a number of peaſants meet together under the ſhade of an oak, and regulate the affairs of ſtate, with the moſt prudential œconomy, is it poſſible to forbear de-

ſpiſing the refinements of other nations, who employ ſo much artifice and myſtery to render themſelves ſplendidly miſerable?

A ſtate thus ſimply governed hath need of but few laws, while in proportion as it becomes neceſſary to promulgate new ones, that neceſſity is univerſally apparent. The firſt perſon who propoſes them, takes on himſelf to ſpeak only what every one hath already thought; and neither eloquence nor intrigue is requiſite to make that paſs into a law, which every one had already reſolved to do, as ſoon as he ſhould be aſſured others would do the ſame.

That which deceives our reaſoners on this ſubject, is, that, ſeeing none but ſuch ſtates as were badly conſtituted at their beginning, they are ſtruck with the impoſſibility of maintaining ſuch a police in them. They ſmile to think of the abſurdities, into which a deſigning knave or inſinuating orator might lead the people of Paris and London. They are not apprized that a Cromwell, and a Beaufort, would have been treated as incendiaries at Berne and Geneva, and have underwent the diſcipline due to their demerit.

But

But when the bonds of ſociety begin to relax, and the ſtate to grow weak; when the private intereſts of individuals begin to appear, and that of parties to influence the ſtate, the objects of public good meet with oppoſition; unanimity no longer preſides in the aſſemblies of the people; the general will is no longer the will of all; contradictions and debates ariſe, and the moſt ſalutary counſel is not adopted without diſpute.

Again, when the ſtate is bordering on ruin, and exiſts only in empty form, when the ſocial tie no longer connects the hearts of the people, when the baſeſt motives of intereſt impudently aſſume the ſacred name of the public good; then is the general will altogether ſilent; individuals, actuated by private motives, cheriſh no more the ſentiments of citizens, than if the ſtate had never exiſted, while the mock legiſlature paſs, under the name of laws, thoſe iniquitous decrees which have no other end than private intereſt.

Doth it follow from hence, however, that the general will is annihilated or corrupted? No. This remains ever conſtant, invariable, and

and pure; though it is ſubjected to that of party. There is not an individual who doth not ſee, while he detaches his own intereſt from that of the public, that he cannot ſeparate himſelf from it entirely: but his ſhare in the common evil ſeems nothing in compariſon to the good which he propoſes to ſecure excluſively to himſelf. Setting this motive aſide, he is as ready to concur in meaſures for the good of the public, and that even for his own ſake as any one. Nay, even in ſelling his vote, he doth not loſe all ſenſe of the general will; he only eludes it. The fault he is guilty of, lies in changing the ſtate of the queſtion, and making an anſwer to what is not aſked him; ſo that, inſtead of admitting by his vote, *that it is to the intereſt of the ſtate*, he ſays, *it is to the intereſt of ſuch an individual or ſuch a party, that this or that law ſhould paſs.* Thus the order which ſhould prevail in the public aſſemblies of the ſtate, ſhould not be calculated ſo much to preſerve the general will inviolate, as to cauſe it to be always interrogated, and to make it anſwer.

I might here make a variety of reflections on the ſimple right of voting in every act of the ſovereignty; a right which the citizens cannot be deprived of: as alſo on the rights of think-

thinking, propoſing and debating on public matters; privileges which government is ever ſolicitous enough to confine to its own members. This ſubject, however, is of importance enough to deſerve a whole treatiſe of itſelf; and it is impoſſible for me to ſay every thing in the preſent.

CHAP. II.

On Votes.

IT is evident, from what hath been ſaid in the preceding chapter, that the manner in which public affairs are carried on, may afford a ſure indication of the actual ſtate of manners, and the health of the body politic. The more concord there is in public aſſemblies, that is to ſay, the nearer the members approach to unanimity in giving their votes, the more prevalent is the general will among them: but long debates, diſſentions and commotions, evince the aſcendency of particular intereſts and the decline of the ſtate.

This appears leſs evident, indeed, when two or more orders of men, enter into the conſtitution; as at Rome, where the quarrels of the Pa-

Patricians and Plebeians occaſioned frequent diſturbances in the *Comitia*, even in the moſt flouriſhing times of the republic. This exception however, is more apparent than real: as in that caſe there exiſts, by a defect inherent in the body politic, two ſtates in one; and that which is not true of both together, may nevertheleſs be true of each apart. It is alſo true in fact that, even during the moſt turbulent times of the republic, the decrees of the Plebeians, when he Senate did not intermeddle, were paſſed with great tranquillity agreeable to the plurality of voices. The citizens having but one common intereſt, the people could have but one will.

Unanimity returns again at the oppoſite extremity of the circle; and this is where the citizens, reduced to ſlavery, have neither liberty nor will. In ſuch a ſituation, fear and flattery pervert their votes into acclamations; they no longer deliberate among themſelves; but either adore or curſe their tyrants. Such were the debaſed principles of the Senate under the Roman emperors. Under theſe circumſtances alſo, the ſentiments of the public were frequently expreſſed, with the moſt ridiculous precaution; Tacitus obſerving that, under Otho, the Se-

Senators, while they loaded Vitellius with execrations, they affected at the ſame time to make a confuſed and clamorous noiſe, in order to prevent his knowing, ſhould he become their maſter, what any individual had ſaid.

From theſe conſiderations may be deduced the maxims, on which the manner of counting votes, and comparing different ſuffrages, ſhould be regulated, according as the general will is more or leſs eaſy to be diſcovered, and the ſtate more or leſs advanced towards its decline. There is but one law, which in its own nature, requires unanimous conſent: and this is the ſocial compact. For civil aſſociation is the moſt voluntary act in the world: every man being born free, and maſter of himſelf, no one can lay him under reſtraint, on any pretence whatever, without his own conſent. To affirm that the ſon of a ſlave is born a ſlave, is to affirm he is not born a man.

If there be any perſons, however, who oppoſe this contract itſelf, their oppoſition does not invalidate that contract; it only hinders their being comprehended therein; and they remain aliens in the midſt of citizens. When a ſtate

a ſtate is formed, a conſent to its inſtitution is inferred by the reſidence of the party: to ſubmit to reſidence in any country is to ſubmit to its ſovereignty *.

If we except this primitive contract, the determination of the majority is always obligatory on the reſt: this is a neceſſary conſequence of the contract itſelf. But it may be aſked, how can a man be free, and yet be obliged to conform to the will of others. How can the members of an oppoſition be called free-men, who are compelled to ſubmit to laws which they have not conſented to? I anſwer that this queſtion is not properly ſtated. The citizen conſents to all laws paſſed by a majority, though ſome of them in particular may have paſſed contrary to his inclination; nay he conſents to thoſe by which he is puniſhable for the breach of

* This muſt always be underſtood, however, of a free ſtate, from which people have the liberty to depart with their effects at pleaſure. For in others the conſideration of their family, their property, the want of an aſylum, neceſſity or violence, may detain an inhabitant in a country contrary to his will; in which caſe, his ſimple reſidence neither implies his conſent to the contract, nor his violation of it.

any

any one. The conſtant will of all the members of a ſtate, is the general will; and it is this alone that makes them either citizens or freemen *. When a law is propoſed in the aſſembly of the people, they are not preciſely demanded, whether they ſeverally approve or reject the propoſition; but whether it be conformable or not to the general will, which is theirs as a collective body; each perſon, therefore, in giving his vote declares his opinion on this head, and on counting the votes, the declaration of the general will, is inferred from the majority. When a law thus paſſes contrary to my opinion, it proves nothing more than that I was miſtaken, and that I concluded the general will to be what it really was not. So that, if my particular advice had been followed, it would have been contrary to my will,

* At Genoa we ſee the word *Libertas* inſcribed on the chains of the galley ſlaves, and on the doors of the priſoners: the application of which device is beautiful and juſt; as it is in fact only the criminals of all ſtates that infringe the liberty of the citizen. A country, whoſe malefactors ſhould be all actually chained to the oar, would be a country of the moſt perfect liberty.

which

which as a citizen is the ſame as the general, and in that caſe I ſhould not have been free.

This argument ſuppoſes, indeed, that all the characteriſtics of the general will, are contained in the plurality of votes: and when this ceaſes to be the caſe, take what courſe you will, there is an end of liberty.

In having ſhewn how the will of particulars and parties is ſubſtituted for the general, in public deliberations, I have already ſufficiently pointed out the practicable means of preventing ſuch abuſes; of this, however, I ſhall ſpeak further hereafter. With regard to the proportional number of votes that indicate this general will, I have alſo laid down the principles on which it may be determined. The difference of a ſingle voice is enough to break the unanimity; but between unanimity and an equality there is a variety of proportions; to each of which the number in queſtion may be applied, according to the circumſtances of the body politic.

There are two general maxims, which may ſerve to regulate theſe proportions: the one is, that the more grave and important the deliberations, the

the nearer ought the determination to approach to unanimity: the other is, that the more expedition the affair requires, the leſs ſhould unanimity be inſiſted on. In deliberations where the matter ſhould be immediately determined, the majority of a ſingle vote ſhould be ſufficient. The firſt of theſe maxims ſeems moſt applicable to permanent laws, and the ſecond to matters of buſineſs. But be this as it may, it is from their judicious combination, that the beſt proportions muſt be deduced, concerning that plurality in whoſe votes ſhould be ſuppoſed to conſiſt the general will.

CHAP. III.

Of Elections.

WITH regard to the election of a prince or of magiſtrates, which, as I before obſerved is a complicated act; there are two methods of proceeding; viz. by choice and by lot. They have each been made uſe of in different republics; and we ſee in our own times, a very intricate mixture of both in the election of the doge of Venice.

The preference by lot, ſays Monteſquieu, *is of the nature of a democracy*. This I admit, but not for the reaſons given. *The choice by lot*, ſays he, *is a method which offends no-body; by permitting each citizen to entertain the reaſonable hope of being preferred to the ſervice of his country.*

This, however, is not the true reaſon. If we reflect that the election of chiefs is a function of government and not of the ſovereignty, we ſhall ſee the reaſon why this method is of the nature of a democracy, in which the adminiſtration is ſo much the better, as its acts are fewer.

In every real democracy the office of magiſtrate is not advantageous but expenſive and burthenſome, ſo that it were unjuſt to impoſe it on one perſon rather than another. The law, therefore, impoſes that charge on him, to whoſe lot it falls. For in this caſe, all ſtanding an equal chance, the choice doth not depend on human will, nor can any particular application change the univerſality of the law.

In an ariſtocracy the prince makes choice of the prince; and, the government providing for it-

itſelf, here it is that votes are properly applicable. The apparent exception, in the election of the doge of Venice, confirms this diſtinction, inſtead of deſtroying it: ſuch a mixt form as is uſed by the Venetians is adapted to a mixt government. For it is a miſtake to ſuppoſe the government of Venice a true ariſtocracy. If the lower order of people, indeed, have no ſhare in the government, the nobility ſtand in their place, and become the people in reſpect to the adminiſtration. What a number is there of the inferior order of nobles, who ſtand no chance of ever getting into the magiſtracy, and reap no other advantage from their rank than the empty title of Excellency, and the privilege of ſitting in the great Council. This great council being as numerous as our general council at Geneva, its illuſtrious members have no greater privileges therefore than our ordinary citizens. It is certain, that ſetting aſide the extreme diſparity of the two republics, the burghers of Geneva repreſent exactly the Patricians of Venice; our natives and ſojourners repreſent the citizens and people, and our peaſants the inhabitants of the *terra firma* belonging to that ſtate. In a word, conſider their Venetian republic in what light you will,

will, abſtracted from its grandeur, its government, is no more ariſtocratical than that of Geneva. All the difference is that we have no occaſion for this kind of election.

The choice by lot, is attended with very little inconvenience in a real democracy, when all men being nearly on an equality, as well with regard to manners and abilities, as to ſentiments and fortune, the matter of choice is indifferent. But I have already obſerved a true democracy is only imaginary.

When the election is of a mixt form, viz. by vote and by lot, the firſt ought to provide for thoſe officers which require proper talents, as in military affairs; the other being beſt adapted to thoſe which require only common ſenſe, honeſty and integrity; ſuch as the offices of judicature; becauſe in a well-formed ſtate, thoſe qualities are poſſeſſed by all the citizens in common.

No election either by vote or lot, hath place under a monarchical government; the monarch himſelf being the only rightful prince and legal magiſtrate, the choice of his ſubſtitute is veſted in

in him alone. When the Abbé de St. Pierre, therefore, propoſed to increaſe the number of the king's councils in France, and to elect their members by ballot, he was not aware that he propoſed to change the form of the French government.

It remains to ſpeak of the manner of giving and collecting votes in popular aſſemblies; but, perhaps, an hiſtorical ſketch of the Roman police relating to this point, will explain it better than all the maxims I ſhould endeavour to eſtabliſh. It is worth the pains of a judicious reader, to attend a little particularly to the manner, in which they treated affairs, both general and particular, in a council of two hundred thouſand perſons.

CHAP. IV.

Of the Roman Comitia.

WE have no authentic monuments of the earlieſt ages of Rome; there is even great reaſon to believe that moſt of the ſtories told us of them are fabulous*; and indeed, the moſt intereſting and inſtructive part of the annals of nations in general, which is that of their eſtabliſhment, is the moſt imperfect. Experience daily teaches us to what cauſes are owing the revolutions of kingdoms and empires; but as we ſee no inſtances of the original formation of ſtates, we can only proceed on conjectures in treating this ſubject.

The cuſtoms we find actually eſtabliſhed, however, ſufficiently atteſt, there muſt have been an origin of thoſe cuſtoms. Thoſe traditions,

* The name of *Rome*, which it is pretended was taken from *Romulus*, is Greek, and ſignifies *force*; the name of Numa is Greek alſo, and ſignifies *law*. What probability is there that the two firſt kings of this city ſhould have been called by names ſo expreſſive of their future actions?

alſo,

alſo, relating to ſuch origin, which appear the moſt rational, and of the beſt authority, ought to paſs for the moſt certain. Theſe are the maxims I have adopted in tracing the manner in which the moſt powerful and free people in the univerſe, exerciſed the ſovereign authority.

After the foundation of Rome, the riſing republic, that is to ſay, the army of the founder, compoſed of Albans, Sabines and foreigners, was divided into three claſſes; which, from that diviſion, took the name of tribes. Each of theſe tribes was ſubdivided into ten *Curiæ*, and each *Curia* into *decuriæ*, at the head of which were placed chiefs reſpectively denominated *curiones* and *decuriones*.

Beſide this, there were ſelected from each tribe a body of an hundred cavaliers or knights, called *centurions*; by which it is evident that theſe diviſions, not being eſſential to the good order of a city, were at firſt only military. But it ſeems as if the preſaging inſtinct of future greatneſs, induced the little town of Rome to adopt at firſt a ſyſtem of police proper for the metropolis of the world.

From this primitive diviſion, however, there ſpeedily reſulted an inconvenience. This was that the tribe of Albans, and that of the Sabines always remaining the ſame, while that of the ſtrangers was perpetually encreaſing by the concourſe of foreigners, the latter ſoon ſurpaſſed the number of the two former. The remedy which Servius applied to correct this dangerous abuſe was to change the diviſion; and to ſubſtitute, in the room of diſtinction of race, which he aboliſhed, another taken from the parts of the town occupied by each tribe. Inſtead of three tribes, he conſtituted four; each of which occupied one of the hills of Rome, and bore its name. Thus by removing this inequality for the preſent, he prevented it alſo for the future; and in order that ſuch diviſion ſhould not only be local but perſonal, he prohibited the inhabitants of one quarter of the city, from removing to the other, and thereby prevented the mixture of families.

He doubled alſo the three ancient centuries of cavalry, and made an addition of twelve others, but always under their old denomination; a ſimple and judicious method, by which he compleatly diſtinguiſhed the body of knights from

from that of the people, without exciting the murmurs of the latter.

Again, to theſe four city tribes, Servius added fifteen others, called ruſtic tribes, becauſe they were formed of the inhabitants of the country, divided into as many cantons. In the ſequel were made an equal number of new diviſions, and the Roman people found themſelves divided into thirty-five tribes; the number at which their diviſions remained fixed, till the final diſſolution of the republic.

From the diſtinction between the tribes of city and country, reſulted an effect worthy of obſervation; becauſe we have no other example of it, and becauſe Rome was at once indebted to it for the preſervation of its manners and the increaſe of its empire. It might be conceived the city tribes would ſoon arrogate to themſelves, the power and honours of the ſtate, and treat the ruſtics with contempt. The effect, nevertheleſs, was directly contrary. The taſte of the ancient Romans for a country life is well known. They derived this taſte from the wiſe inſtitutor, who joined to liberty the labours of the peaſant and the ſoldier, and conſigned, as

it were, to the city, the cultivation of the arts, trade, intrigue, fortune and ſlavery.

Thus the moſt illuſtrious perſonages of Rome, living in the country, and employing themſelves in the buſineſs of agriculture, it was among theſe only the Romans looked for the defenders of their republic. This ſtation, being that of the moſt worthy patricians, was held in univerſal eſteem: the ſimple and laborious life of the villager was preferred to the mean and lazy life of the citizen; and a perſon who, having been a labourer in the country, became a reſpectable houſe-keeper in town, was yet held in contempt. It is with reaſon, ſays Varro, that our magnanimous anceſtors eſtabliſhed in the country the nurſery for thoſe robuſt and brave men, who defended them in time of war and cheriſhed them in peace. Again, Pliny ſays in expreſs terms, the country tribes were honoured becauſe of the perſons of which they were compoſed; whereas ſuch of their individuals as were to be treated with ignominy, were removed into the tribes of the city. When the Sabine, Appius Claudius, came to ſettle in Rome, he was loaded with honours, and regiſtered in one of the ruſtic tribes, which afterwards took the

the name of his family. Laſtly, the freed-men were all entered in the city tribes, never in the rural; nor is there one ſingle inſtance, during the exiſtence of the republic, of any one of theſe freedmen being preferred to the magiſtracy, although become a citizen.

This was an excellent maxim, but was carried ſo far, that it effected an alteration, and undoubtedly an abuſe in the police of the ſtate.

In the firſt place, the Cenſors, after having long arrogated the right of arbitrarily removing the citizens from one tribe to another, permitted the greater part to regiſter themſelves in whatever tribe they pleaſed; a permiſſion that could ſurely anſwer no good end, and yet it deprived theſe officers of one of their ſevereſt methods of cenſure. Beſides, as the great and powerful thus got themſelves regiſtered in the rural tribes; and the freedmen, with the populace, only filled up thoſe of the city; the tribes in general had no longer a local diſtinction: but were ſo ſtrangely mixed and jumbled together, that their reſpective members could be known only by appealing to the regiſters; ſo that the idea attached to the word tribe,

was changed from real to perſonal, or rather became altogether chimerical.

It happened alſo that the tribes of the city, being nearer at hand, had generally the greateſt influence in the *Comitia*, and made a property of the ſtate, by ſelling their votes to thoſe who were baſe enough to purchaſe them.

With regard to the *Curiæ*, ten having been inſtituted in each tribe, the whole Roman people, included within the walls, made up thirty *Curiæ*, each of which had their peculiar temples, their gods, officers and feaſts called *Compitalia*, reſembling the *paganalia*, afterwards inſtituted among the ruſtic tribes.

At the new diviſion made by Servius, the number thirty not being equally diviſible among the four tribes, he forbore to meddle with this mode of diſtribution; and the Curiæ, thus independent of the tribes, formed another diviſion of the inhabitants. No notice, however, was taken of the Curiæ, either among the ruſtic tribes, or the people compoſing them; becauſe the tribes becoming a mere civil eſtabliſhment, and another method having been introduced for raiſing

raiſing the troops, the military diſtinctions of Romulus were dropt as ſuperfluous. Thus, though every citizen was regiſtered in ſome tribe, yet many of them were not included in any *curia*. Servius made ſtill a third diviſion, which had no relation to the two former, and became in its conſequences the moſt important of all. He divided the whole Roman people into ſix claſſes, which he diſtinguiſhed, neither by perſons nor place, but by property. Of theſe the higher claſſes were filled by the rich, the lower by the poor, and the middle claſſes by thoſe of middling fortunes. Theſe ſix claſſes were ſubdivided into one hundred ninety-three other bodies called centuries; and theſe were again ſo diſtributed that the firſt claſs alone comprehended more than half the number of centuries, and the laſt claſs only one ſingle century. In this method the claſs that contained the feweſt perſons, had the greater number of centuries; and the laſt claſs was in number only a ſubdiviſion, although it contained more than half the inhabitants of Rome.

In order that the people ſhould penetrate leſs into the deſign of this latter form of diſtribution, Servius affected to give it the air of a mi-

litary one. In the ſecond claſs he incorporated two centuries of armourers, and annexed two inſtruments of war to the fourth. In each claſs, except the laſt, he diſtinguiſhed alſo between the young and the old, that is to ſay, thoſe who were obliged to bear arms, from thoſe who were exempted from it on account of their age; a diſtinction which gave more frequent riſe to the repetition of the *cenſus* or enumeration of them, than even the ſhifting of property: laſtly, he required their aſſembly to be made on the *Campus Martius*, where all thoſe who were of age for the ſervice were to appear under arms.

The reaſon, why he did not purſue the ſame diſtinction of age in the laſt claſs, was, that the populace, of which it was compoſed, were not permitted to have the honour of bearing arms in the ſervice of their country. It was neceſſary to be houſe-keepers, in order to attain the privilege of defending themſelves. There is not one private centinel perhaps, of all thoſe innumerable troops, that make ſo brilliant a figure in the armies of modern princes, who would not, for want of property, have been driven out with diſdain from a Roman Cohort, when ſoldiers were the defenders of liberty.

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In the laſt claſs, however, there was a diſtinction made between what they called *proletarii* and thoſe denominated *capite cenſi.* The former, not quite reduced to nothing, ſupplied the ſtate at leaſt with citizens, and ſometimes on preſſing occaſions with ſoldiers. As to thoſe, who were totally deſtitute of ſubſtance, and could be numbered only by capitation, they were diſregarded as nothing; Marius being the firſt who deigned to enroll them.

Without taking upon me here to decide, whether this third ſpecies of diviſion be in itſelf good or ill; I may venture ſafely to affirm, that nothing leſs than that ſimplicity of manners, which prevailed among the ancient Romans, their diſintereſtedneſs, their taſte for agriculture, their contempt for trade and the thirſt of gain, could have rendered it practicable. Where is the nation among the moderns, in which voracious avarice, a turbulence of diſpoſition, a ſpirit of artifice, and the continual fluctuation of property, would permit ſuch an eſtabliſhment to continue for twenty years without overturning the ſtate? Nay it muſt be well obſerved that the purity of the Roman manners, and the force of a cenſure more efficacious than the in-

ſtitution itſelf, ſerved to correct the defects of it at Rome, where a rich man was often removed from his own claſs and ranked among the poor, for making an improper parade of his wealth.

It is eaſy to comprehend from this, why mention is hardly ever made of more than five claſſes, though there were in reality ſix. The ſixth, furniſhing neither the army with ſoldiers, nor the *Campus Martius* * with voters, and being of hardly any uſe in the republic, was hardly ever accounted any thing.

Such were the different diviſions of the Roman people. We will now examine into the defects, of which they were productive, in their aſſemblies. Theſe aſſemblies, when legally convoked, were denominated *Comitia*, and were held in the *Campus Martius* and other parts of Rome; being diſtinguiſhed into *curiata*, *centuriata*, and *tributa*, according to the three grand diviſions

* I ſay the *Campus Martius*, becauſe it was there the *Comitia* aſſembled by centuries; in the two other forms, they aſſembled in the *forum* and other places, where the *capite cenſi* had as much influence and importance as the principal citizens.

of

of the people into *Curiæ*, *Centuries*, and *Tribes*. The *Comitia curiata* were inſtituted by Romulus, the *Centuriata* by Servius, and the *Tributa* by the tribunes of the people. Nothing could paſs into a law, nor could any magiſtrate be choſen but in the *Comitia*, and as there was no citizen who was not enrolled in a *Curia*, *Century* or *Tribe*, it follows that no citizen was excluded from giving his vote; ſo that the Roman people were truly ſovereign both in right and fact.

To make the aſſembly of the *Comitia* legal, and give their determinations the force of laws, three conditions were requiſite. In the firſt place it was neceſſary that the magiſtrate or body convoking them, ſhould be inveſted with proper authority for ſo doing: Secondly, that the aſſembly ſhould occur on the days permitted by law; and thirdly, that the augurs ſhould be favourable to their meeting.

The reaſon of the firſt condition needs no explanation: The ſecond is an affair of police; thus it was not permitted the *Comitia* to aſſemble on market days, when the country people, coming to Rome on buſineſs, would be prevented from tranſacting it. By the third, the Senate kept a fierce and turbulent multitude

under ſome reſtraint, and opportunely checked the ardour of the ſeditious tribunes; the latter, however, found more ways than one to elude the force of this expedient.

But the laws and the election of the chiefs were not the only matters ſubmitted to the determination of the *Comitia:* the Roman people having uſurped the moſt important functions of government, the fate of Europe might be ſaid to depend on their aſſemblies. Hence the variety of objects that came before them, gave occaſion for divers alterations in the form of theſe aſſemblies, according to the nature of thoſe objects.

To judge of theſe diverſities, it is ſufficient to compare them together. The deſign of Romulus in inſtituting the *Curiæ*, was to reſtrain the Senate by means of the people, and the people by the Senate, while he himſelf maintained his influence equally over both. By this form, therefore, he gave to the people all the authority of number to counterballance that of power and riches, which he left in the hands of the Patricians. But, agreeable to the ſpirit of monarchy, he gave more advantage to the Patricians, by the influence of their clients to obtain

tain the majority of votes. This admirable inſtitution of patrons and clients, was a maſterpiece of politics and humanity, without which the order of Patricians, ſo contrary to the ſpirit of the republic, could not have ſubſiſted. Rome alone hath the honour of giving to the world this fine example, of which no abuſe is known to have been made, and which nevertheleſs hath never been adopted by other nations.

This diviſion by *Curiæ* having ſubſiſted under the kings till the time of Servius, and the reign of the laſt *Tarquin* being accounted illegal, the regal laws came hence to be generally diſtinguiſhed by the name of *leges curiatæ.*

Under the republic, the *Curiæ*, always confined to the four city tribes, and comprehending only the populace of Rome, could not arrive either at the honour of ſitting in the Senate, which was at the head of the Patricians, or at that of being Tribunes, which, notwithſtanding they were Plebeians, were yet at the head of the citizens in eaſy circumſtances. They fell, therefore, into diſcredit, and were reduced to ſo contemptible a ſtate that their thirty Lictors aſſembled to do the whole buſineſs of the *Comitia curiata.*

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The diviſion by *centuries*, was ſo favourable to ariſtocracy, that it is not at firſt eaſy to comprehend why the Senate did not always carry their point in the *Comitia centuriata*, by which the Conſuls, Cenſors, and Prætors were choſen. It is in fact certain that out of the hundred and ninety three centuries, forming the ſix claſſes of the whole Roman people, the firſt claſs containing ninety eight of them, and the votes being reckoned only centuries, this firſt claſs alone had more votes than all the others. When the centuries of this claſs, therefore, were found to be unanimous, they proceeded no farther in counting votes; whatever might be determined by the minority being conſidered as the opinion of the mob. So that it might be juſtly ſaid, that in the *Comitia centuriata* matters were carried rather by the greater quantity of money, than the majority of votes.

But this extreme authority was moderated by two cauſes. In the firſt place, the Tribunes, generally ſpeaking, and always a conſiderable number of wealthy citizens, being in this claſs of the rich, they counterpoized the credit of the Patricians in the ſame claſs. The ſecond cauſe lay in the manner of voting, which was this; the centuries, inſtead of voting according

to

to order, beginning with the firſt in rank, caſt lots which ſhould proceed firſt to the election. And to this the century whoſe lot it was, proceeded * alone; the other centuries being called upon another day to give their votes according to their rank, when they repeated the ſame election, and uſually confirmed the choice of the former. By this method the preference of rank was ſet aſide, in order to give it according to lot, agreeable to the principles of democracy.

There is another advantage reſulting from this cuſtom; which is that the citizens reſiding in the country had time between the two elections to inform themſelves of the merit of the candidates thus proviſionally nominated; by which means they might be better enabled to give their vote. But under the pretence of expediting affairs, this cuſtom was in time aboliſhed, and the two elections were made the ſame day.

* The century thus preferred by lot was called *prærogativa*; becauſe it was the firſt whoſe ſuffrage was demanded; and hence is derived the word *prerogative*.

The

The *Comitia by Tribes*, were properly ſpeaking the great council of the Roman people. Theſe were convoked only by the Tribunes; by theſe alſo the Tribunes were choſen, and by theſe the *plebiſcita* or laws of the people were paſſed. The Senators were not only deſtitute of rank in theſe aſſemblies; they had not even the right to be preſent at them; but, obliged to pay obedience to laws in the enacting of which they had no vote, they were in that reſpect leſs free than the loweſt citizens. This injuſtice, however, was very ill underſtood, and was in itſelf alone ſufficient to invalidate the decrees of a body, whoſe members were not all admitted to vote. Had all the Patricians aſſiſted at theſe *Comitia*, as they had a right, in quality of citizens, they could have had no undue influence where every man's vote was equal, even from the loweſt of the people to the higheſt perſonage of the ſtate.

It is evident, therefore, that, excluſive of the good order that reſulted from theſe ſeveral diviſions, in collecting the votes of ſo numerous a people, the form and method of theſe diviſions were not indifferent in themſelves; each being productive of effects, adapted to certain

certain views in regard to which it was preferable to any other.

But without entering into a more circumſtantial account of theſe matters, it is plain from what hath been advanced, that the *Comitia tribunata* were the moſt favourable to a popular government, and the *Comitia centuriata* to an ariſtocracy. With reſpect to the *Comitia curiata* of which the populace formed the majority, as they were good for nothing but to favour tyrannical deſigns, they remained in this contemptible ſtate, into which they were fallen; even the contrivers of ſedition themſelves not chuſing to employ means, which muſt have expoſed too openly their deſigns. It is very certain that all the majeſty of the Roman people was diſplayed only in the *Comitia centuriata*, which only were compleat; the *curiata* wanting the ruſtic Tribes, and the *tribunata* the Senate and Patricians.

With regard to the method of collecting the votes, it was, among the primitive Romans, ſimple as their manners, though ſtill leſs ſimple than that of Sparta. Every one gave his vote aloud, which the regiſter took down in writing; the plurality of votes in each tribe, determined the vote of that tribe, and the plurality of votes in the tribes

tribes determined the ſuffrage of the people. In the ſame manner alſo they proceeded with regard to the *Curiæ* and the centuries. This cuſtom was a very good one, ſo long as integrity prevailed among the citizens, and every one was aſhamed to give his public ſanction to an unworthy perſon or cauſe. But when the people grew corrupt and ſold their votes, it became neceſſary to make them give their votes more privately, in order to reſtrain the purchaſers by diſtruſt, and afford knaves an expedient to avoid being traitors.

I know that Cicero cenſures this alteration, and attributes to it in a great degree the ruin of the republic. But, though I am ſenſible of all the weight of Cicero's authority in this caſe, I cannot be of his opinion. I conceive, on the contrary, that the ruin of the ſtate would have been accelerated, had the Romans neglected making this alteration. As the regimen of people in health, is not proper for the ſick, ſo it is abſurd to think of governing a corrupt people by the ſame laws as were expedient for them before they were corrupted. There cannot be a ſtronger proof of this maxim, than the duration of the republic of Venice, the ſhadow of which ſtill exiſts, ſolely becauſe its laws are adapted only to bad men.

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On this change in the manner of voting, tablets were diſtributed among the citizens, by means of which they could give their ſuffrage without its being known. On this occaſion other methods were of courſe made uſe of in collecting votes, ſuch as counting the number of voices, comparing it with that of the tablets, &c. Not that theſe methods were ſo effectual as to prevent the returning officers * from being often ſuſpected of partiality: and it is plain in the ſequel, by the multiplicity of laws made to prevent bribery and corruption in elections, that they could not effect this point.

Toward the decline of the republic, recourſe was had to very extraordinary expedients, to make up for the inſufficiency of the laws. Prodigies were ſometimes played off with ſucceſs; but this ſcheme, though it impoſed on the multitude, did not impoſe on thoſe who influenced them. Sometimes aſſemblies were called ſuddenly, and in great haſte, that the candidates might not have time to create an undue intereſt: at others again the whole ſeſſions was ſpent in declamation, when it was ſeen that the people

* Cuſtodes, ditibitores, rogatores, ſuffragiorum.

were

were biaſſed to take a wrong ſide. At length, however, ambition eluded all theſe precautions, and it is almoſt incredible that, in the midſt of ſo many abuſes, this immenſe people ſtill continued, by virtue of their ancient laws, to elect their magiſtrates, to paſs laws, to judge cauſes, and to expedite both public and private affairs, with as much facility as could have been done in the Senate itſelf.

CHAP. V.

On a Tribunate.

WHEN it is impracticable to eſtabliſh an exact proportion between the component parts of a ſtate, or that inevitable cauſes perpetually operate to change their relations, a particular magiſtracy is inſtituted which, not incorporating with the reſt, replaces every term in its true relation, and conſtitutes in itſelf a due medium either between the prince and the people, between the prince and the ſovereign, or, in caſes of neceſſity, at once between both.

This body, which I ſhall call a *Tribunate*, is the preſerver of the laws and of the legiſlative power.

power. It ſerves ſometimes to protect the ſovereign againſt the government, as the tribunes of the people did at Rome; ſometimes to protect the government againſt the people, as at preſent the council of the *ten* do at Venice; and again at others to maintain an equilibrium both on the one part and the other, as did the Ephori at Sparta.

The Tribunate is not a conſtitutional part of the city, and ought not, therefore, to have any ſhare in the legiſlative or executive power: even in this however, its own is much greater: for being able to do nothing itſelf, it may prevent any thing from being done by others. It is more ſacred and revered, as defender of the laws, than the prince who executes them, or the ſovereign who enacts them. This was very evident at Rome, when the haughty Patricians, who always deſpiſed the people collectively, were nevertheleſs obliged to give place to their common officers, without command or juriſdiction.

The Tribunate when judiciouſly moderated is the firmeſt ſupport of a good conſtitution; but if it have ever ſo little aſcendency of power, it

it ſubverts every thing. With regard to its weakneſs it is not natural to it; for, provided it have any exiſtence at all, it can never have too little power.

It degenerates into tyranny when it uſurps the executive power, of which it is only the moderator, and when it would interpret the laws which it ſhould only protect. The enormous power of the Ephori, which was exerciſed without danger, while Sparta retained its purity of manners, ſerved only to increaſe the corruption of them when once begun. The blood of Agis ſpilt by thoſe tyrants was revenged by his ſucceſſor: the crime and the puniſhment of the Ephori accelerated equally the ruin of that republic; for after the time of Cleomenes Sparta was nothing. The deſtruction of the Roman republic was effected in the ſame manner: the exceſſive power which the Tribunes by degrees uſurped, ſerved at length, with the help of the laws made in defence of liberty, as a ſecurity to the Emperors who deſtroyed it. As for the council of *ten* at Venice; it is a moſt ſanguinary tribunal, equally horrible to the Patricians and the people, and which is ſo far from openly protecting the laws, that it now ſerves but ſecretly to effect the breach of them.

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The Tribunate is enfeebled, as well as the government, by increaſing the number of its members. When the Roman Tribunes, at firſt two, and afterwards five, had a mind to double their number, the Senate did not oppoſe it; being well aſſured they ſhould be able to make one a curb to another; which was actually the caſe.

The beſt way to prevent the uſurpations of ſo formidable a body, a way that no government hath hitherto adopted, would be to render ſuch a body not permanent, but to regulate the intervals during which it ſhould remain diſſolved. Theſe intervals which ſhould not be ſo great as to give abuſes time to ſtrengthen into cuſtoms, might be fixed by law, in ſuch a manner that it would be eaſy to abridge them, in caſe of neceſſity by extraordinary commiſſion.

This method appears to me, to be attended with no inconvenience; becauſe, as I have already obſerved, the Tribunate making no eſſential part of the conſtitution, may be ſuppreſſed without injury: and it appears to me effectual, becauſe a magiſtrate newly re-eſtabliſhed doth not ſucceed to the power of his predeceſſor, but to that which the law confers on him.

CHAP. VI.

Of the Dictature.

THAT inflexibility of the laws, which prevents their yielding to circumſtances, may in ſome caſes render them hurtful, and in ſome critical juncture bring on the ruin of the ſtate. The order and prolixity of forms, take up a length of time, of which the occaſion will not always admit. A thouſand accidents may happen for which the legiſlature hath not provided; and it is a very neceſſary foreſight to ſee that it is impoſſible to provide for every thing.

We ſhould not be deſirous, therefore, of eſtabliſhing the laws ſo firmly as to ſuſpend their effects. Even Sparta itſelf ſometimes permitted the laws to lie dormant.

Nothing, however, but the certainty of greater danger ſhould induce a people to make any alteration in government; nor ſhould the ſacred power of the laws be ever reſtrained unleſs the public ſafety is concerned. In ſuch uncommon caſes, when the danger is manifeſt, the public ſafety may be provided for by a particular act, which commits the charge of it to thoſe who

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are moſt worthy. Such a commiſſion may paſs, in two different ways, according to the nature of the danger.

If the caſe require only a greater activity in the government, it ſhould be confined to one or two members; in which caſe it would not be the authority of the laws, but the form of the adminiſtration only that would be changed. But if the danger be of ſuch a nature, that the formality of the laws would prevent a remedy, then a ſupreme chief might be nominated who ſhould ſilence the laws, and ſuſpend for a moment the ſovereign authority. In ſuch a caſe, the general Will cannot be doubted, it being evident that the principal intention of the people muſt be to ſave the ſtate from perdition, By this mode of temporary ſuſpenſion the legiſlative authority is not aboliſhed; the magiſtrate who ſilences it, cannot make it ſpeak, and though he over-rules cannot repreſent it; he may do every thing indeed but make laws.

The firſt method was taken by the Roman Senate, when it charged the conſuls, in a ſacred manner, to provide for the ſafety of the

common-wealth. The ſecond took place when one of the conſuls nominated a dictator*; a cuſtom which Rome adopted from the example of Alba.

In the early times of the republic, the Romans had frequent recourſe to the dictatorſhip, becauſe the ſtate had not then ſufficient ſtability to ſupport itſelf by the force of its conſtitution. The manners of the people, alſo, rendering thoſe precautions unneceſſary, which were taken in after-times, there was no fear that a dictator would abuſe his authority, or that he would be tempted to keep it in his hands, beyond the term. On the contrary, it appeared that ſo great a power was burthenſome to the perſon inveſted with it, ſo eager were they to reſign it; as if it were a difficult and dangerous poſt, to be ſuperior to the laws.

Thus it was not the danger of the abuſe, but of the debaſement of this ſupreme magiſtracy,

* This nomination was ſecretly made in the night, as if they were aſhamed of the action of placing any man ſo much above the laws.

that

that gave occaſion to cenſure the indiſcreet uſe of it, in ancient times. For when they came to proſtitute it in the affair of elections and other matters of mere formality, it was very juſtly to be apprehended that it would become leſs reſpectable on preſſing occaſions; and that the people would be apt to look upon an office as merely titular, which was inſtituted to aſſiſt at empty ceremonies.

Toward the end of the republic, the Romans, becoming more circumſpect, were as ſparing of the dictature, as they had before been prodigal of it. It was eaſy to ſee, however, that their fears were groundleſs, that the weakneſs of the capital was their ſecurity againſt the internal magiſtrates; that a dictator might in ſome caſes have acted in defence of public liberty, without ever making encroachments on it; and that the Roman chains were not forged in Rome itſelf, but in its armies abroad. The weak reſiſtance which Marius made to Sylla and Pompey to Cæſar, ſhewed plainly how little the authority from within the city could do againſt the power from without.

This error led them to commit great blunders. Such for inſtance, was their neglecting to appoint a dictator in the affair of Cataline. For, as it engaged only the city, or at moſt a province in Italy, a dictator inveſted with that unlimited authority which the laws conferred on him, might eaſily have diſſipated that conſpiracy, which was with difficulty ſuppreſſed by a numerous concurrence of fortunate circumſtances; which human prudence had no reaſon to expect. Inſtead of that, the Senate contented itſelf with committing all its power into the hands of conſuls; whence it happened that Cicero, in order to act effectually, was obliged to exceed that power in a capital circumſtance; and though the public, in their firſt tranſports, approved of his conduct, he was very juſtly called to an account afterwards for the blood he had ſpilt contrary to the laws; a reproach they could not not have made to a dictator. But the eloquence of the conſul carried all before it; and preferring, though a Roman, his own glory to his country, he thought leſs of the moſt legal, and certain method of ſaving the ſtate, than the means of ſecuring all the honour

of

of ſuch a tranſaction to himſelf*. Thus was he very juſtly honoured as the deliverer of Rome, and as juſtly puniſhed as the violator of its laws. For, however honourable was his repeal, it was certainly a matter of favour.

After all, in whatever manner this important commiſſion may be conferred, it is of conſequence to limit its duration to a ſhort term; which ſhould on no occaſion be prolonged. In thoſe conjunctures, when it is neceſſary to appoint a dictator, the ſtate is preſently ſaved or deſtroyed, which cauſes being over, the dictature becomes uſeleſs and tyrannical. At Rome, the dictators held their office only for ſix months; and the greater part reſigned before that term expired. Had the time appointed been longer, it is to be apprehended they would have been tempted to make it longer ſtill; as did the *decemvir* whoſe office laſted a whole year. The dictator had no more time allotted him than was neceſſary to diſpatch the buſineſs for which he was appointed; ſo that he had not leiſure to think of other projects.

* This is what he could not be certain of, in propoſing a dictator; not daring to nominate himſelf, and not being aſſured his colleague would do it.

CHAP. VII.

Of the Cenſorſhip.

AS the declaration of the general will is made by the laws, ſo the declaration of the public judgment is made by their cenſure. The public opinion is a kind of law, which the Cenſor puts in execution, in particular caſes, after the example of the prince.

So far, therefore, is the cenſorial tribunal from being the arbiter of popular opinions, it only declares them; and, whenever it departs from them, its deciſions are vain and ineffectual.

It is uſeleſs to diſtinguiſh the manners of a nation by the objects of its eſteem; for theſe depend on the ſame principle, and are neceſſarily confounded together. Among all people in the world, it is not nature, but opinion, which determines the choice of their pleaſures. Correct the prejudices and opinions of men, and their manners will correct themſelves. We always admire what is beautiful, or what appears

ſo;

ſo; but it is in our judgment we are miſtaken; it is this judgment then we are to regulate. Whoever judges of manners, takes upon him to judge of honour; and whoever judges of honour, decides from opinion.

The opinions of a people depend on the conſtitution; though the laws do not govern manners, it is the legiſlature that gives riſe to them. As the legiſlature grows feeble, manners degenerate, but the judgment of the cenſors will not then effect what the power of the laws have not before effected.

It follows, hence, that the office of a cenſor may be uſeful to the preſervation of manners, but never to their re-eſtabliſhment. Eſtabliſh cenſors during the vigour of the laws; when this is paſt, all is over; no legal means can be effectual when the laws have loſt their force.

The cenſor is preſervative of manners, by preventing the corruption of opinions, by maintaining their morality and propriety by judicious applications, and even ſometimes by ſettling them when in a fluctuating ſituation. The uſe

of ſeconds in duels, though carried to the greateſt exceſs in France, was aboliſhed by the following words inſerted in one of the kings edicts; *As to thoſe who have the cowardice to call themſelves ſeconds.* This judgment, anticipating that of the public, was effectual and put an end to that cuſtom at once. But when the ſame edicts pronounced it cowardice to fight a duel; though it is certainly true, yet as it was contrary to the popular opinion, the public laughed at a determination ſo contrary to their own.

I have obſerved elſewhere * that the public opinion, being ſubjected to no conſtraint, there ſhould be no appearance of it in the tribunal eſtabliſhed to repreſent it. One cannot too much admire with what art this ſpring of action, entirely neglected among the moderns, was employed by the Romans, and ſtill more effectually by the Lacedemonians.

A man of bad morals, having made an excellent propoſal in the council at Sparta, the

* I do but ſlightly mention here, what I have treated more at large in my letter to M. d'Alembert.

Ephori,

Ephori, without taking any notice of it, cauſed the ſame propoſal to be made by a citizen of character and virtue. How honourable was this proceeding to the one, and how diſgraceful to the other; and that without directly praiſing or blaming either! Some drunkards of Samos, having behaved indecently in the tribunal of the Ephori, it was the next day permitted, by a public edict, that the Samians might become ſlaves. Would an actual puniſhment have been ſo ſevere as ſuch impunity? When the Spartans had once paſſed their judgment on the decency or propriety of any behaviour, all Greece ſubmitted to their opinion.

CHAP. VIII.

Of political Religion.

IN the firſt ages of the world, men had no other kings than gods, nor any other government than what was purely theocratical. It required a great alteration in their ſentiments and ideas, before they could prevail on themſelves, to look upon a fellow creature as a maſter, and think it went well with them.

Hence, a deity being conſtantly placed at the head of every political ſociety, it followed that there was as many different gods as people. Two communities, perſonally ſtrangers to each other, and almoſt always at variance, could not long acknowlege the ſame maſter; nor could two armies, drawn up againſt each other in battle, obey the ſame chief. Thus Polytheiſm became a natural conſequence of the diviſion of nations, and thence the want of civil and theological toleration, which are perfectly the ſame, as will be ſhewn hereafter.

The notion of the Greeks, in pretending to trace their own gods among thoſe of the Barbarian nations, took its riſe evidently from the ambition of being thought the natural ſovereigns of thoſe people. In this age, however, we think that a moſt abſurd part of erudition, which relates to the identity of the deities of different nations, and according to which it is ſuppoſed that Moloch, Saturn and Chronos were one and the ſame god; and that the Baal of the Phenicians, the Zeus of the Greeks, and the Jupiter of the Latins were the ſame deity; as if any thing could be found in common be-

between chimerical beings bearing different names!

If it be aſked why there were no religious wars among the Pagans, when every ſtate had thus its peculiar deity and worſhip? I anſwer, it was plainly for this very reaſon, that each ſtate having its own peculiar religion as well as government, no diſtinction was made between the obedience paid to their gods and that due to their laws. Thus their political were at the ſame time theological wars; and the departments of their deities were preſcribed by the limits of their reſpective nations. The god of one people had no authority over another people; nor were theſe Pagan deities jealous of their prerogatives; but divided the adoration of mankind amicably between them. Even Moſes himſelf ſometimes ſpeaks in the ſame manner of the god of Iſrael. It is true the Hebrews deſpiſed the gods of the Canaanites, a people proſcribed and devoted to deſtruction, whoſe poſſeſſions were given them for an inheritance: but they ſpeak with more reverence of the deities of the neighbouring nations whom they were forbidden to attack. *Wilt thou not poſſeſs that*, ſays Jeptha to Sihon, king of the Ammonites,

nites, *which Chemoth thy God giveth thee to poſſeſs? So whomſoever the Lord our God ſhall drive out from before us, them will we poſſeſs.* There is in this paſſage, I think, an acknowleged ſimilitude between the rights of Chemoſh, and thoſe of the God of Iſrael.

But when the Jews, being ſubjected to the kings of Babylon, and afterwards to thoſe of Syria, perſiſted in refuſing to acknowlege any god but their own, this refuſal was eſteemed an act of rebellion againſt their conquerer, and drew upon them thoſe perſecutions we read of in their hiſtory, and of which no other example is extant previous to the eſtabliſhment of chriſtianity *.

The religion of every people being thus excluſively annexed to the laws of the ſtate, the only method of converting nations was to ſubdue them; warriors were the only miſſionaries; and the obligation of changing their religion being a law to the vanquiſhed, they were firſt to be conquered before they were ſolicited on

* It is evident that the war of the Phocians, called an holy war was not a religious war. Its object was to puniſh ſacrilege, and not to ſubdue infidels.

this

this head. So far were men from fighting for the gods, that their gods, like thoſe of Homer, fought in behalf of mankind. Each people demanded the victory from its reſpective deity, and expreſſed their gratitude for it by the erection of new altars. The Romans before they beſieged any fortreſs ſummoned its gods to abandon it; and though it be true they left the people of Tarentum in poſſeſſion of their angry deities, it is plain they looked upon thoſe gods as ſubjected and obliged to do homage to their own: They left the vanquiſhed in poſſeſſion of their religion as they ſometimes did in that of their laws; a wreathe for Jupiter of the Capitol, being often the only tribute they exacted.

At length, the Romans having extended their religion with their empire, and ſometimes even adopted the deities of the vanquiſhed, the people of this vaſt empire found themſelves in poſſeſſion of a multiplicity of gods and religions; which not differing eſſentially from each other, Paganiſm became inſenſibly one and the ſame religion throughout the world.

Things were in this ſtate, when Jeſus came to eſtabliſh his ſpiritual kingdom on earth; a deſign

ſign which, neceſſarily dividing the theological from the political ſyſtem, gave riſe to thoſe inteſtine diviſions which have ever ſince continued to embroil the profeſſion of Chriſtianity. Now this new idea of a kingdom in the other world, having never entered into the head of the Pagans, they regarded the Chriſtians as actual rebels, who, under an hypocritical ſhew of humility, waited only a proper opportunity to render themſelves independent, and artfully to uſurp that authority, which in their weak and infant ſtate they pretended to reſpect: and this was undoubtedly the cauſe of their being perſecuted.

What the Pagans were apprehenſive of, alſo, did, in proceſs of time, actually come to paſs. Things put on a new face, and the meek Chriſtians, as their number increaſed, changed their tone, while their inviſible kingdom of the other world, became, under a viſible head, the moſt deſpotic and tyrannical in this.

As in all countries, however, there were civil governors, and laws, there reſulted from this two-fold power a perpetual ſtruggle for juriſdiction, which renders a perfect ſyſtem of do-

domeſtic policy almoſt impoſſible in Chriſtian ſtates; and prevents us from ever coming to a determination, whether it be the prince or the prieſt we are bound to obey.

Some nations indeed, even in Europe or its neighbourhood, have endeavoured to preſerve or re-eſtabliſh the ancient ſyſtem, but without ſucceſs; the ſpirit of Chriſtianity hath univerſally prevailed. Religious worſhip hath always remained, or again become independent of the ſovereign, and without any neceſſary connection with the body of the ſtate. Mahomet had very ſalutary and well-connected views in his political ſyſtem, and ſo long as his modes of government ſubſiſted under the caliphs and their ſucceſſors, that government remained perfectly uniform, and ſo far good. But the Arabians becoming wealthy, learned, polite, indolent and cowardly, were ſubdued by the Barbarians: then the diviſion between the two powers recommenced; and though it be leſs apparent among the Mahometans than among Chriſtians, it is nevertheleſs to be diſtinguiſhed, particularly in the ſect of Ali: there are ſome ſtates, alſo, as in Perſia, where this diviſion is conſtantly perceptible.

Among

Among us, the kings of England are placed at the head of the church, as are alſo the Czars in Ruſſia: but by this title they are not ſo properly maſters as miniſters of the religion of thoſe countries: they are not poſſeſſed of the power to change it, but only to maintain its preſent form. Wherever the Clergy conſtitute a collective body *, they will be both maſters and legiſlators in their own cauſe. There are therefore two ſovereigns in England and Ruſſia, as well as elſewhere.

Of all Chriſtian authors, Mr. Hobbes was the only one who ſaw the evil and the remedy, and that hath ventured to propoſe the re-union

* It muſt be obſerved, that it is not ſo much the formal aſſemblies of the clergy, ſuch as are held in France, which unite them together in a body, as the communion of their churches. Communion and excommunication form the ſocial compact of the clergy; a compact by means of which they will always maintain their aſcendency over both kings and people. All the prieſts that communicate together are fellow-citizens, though they ſhould be perſonally as diſtant, as the extremities of the world. This invention is a maſter-piece in policy. The Pagan prieſts had nothing like it; and therefore never had any clerical body.

of

of the two heads of this eagle, and to reſtore that political union, without which no ſtate or government can be well conſtituted. But he ought to have ſeen that the prevailing ſpirit of Chriſtianity was incompatible with his ſyſtem, and that the intereſt of the Church would be always too powerful for the ſtate. It was not ſo much that which was really falſe and ſhocking in the writings of this philoſopher, as what was really juſt and true, that rendered him odious *.

I conceive that, by a proper diſplay of hiſtorical facts, in this point of view, it would be eaſy to refute the oppoſite ſentiments both of Bayle and Warburton; the former of which pretends that no religion whatever can be of ſervice to the body politic, and the latter that Chriſtianity is its beſt and firmeſt ſupport. It might be proved againſt the firſt, that every

* In a letter of Grotius to his brother, dated the 11th of April, 1643, may be ſeen what that great Civilian approved and blamed in his book *de cive*. It is true that Grotius, being indulgent, ſeems inclined to forgive the author, the faults of his book, for the ſake of its merits, the reſt of the world, however, were not ſo candid.

ſtate

ſtate in the world hath been founded on the baſis of religion; and againſt the ſecond, that the precepts of Chriſtianity are at the bottom more prejudicial than conducive to the ſtrength of the ſtate.

In order to make myſelf fully underſtood, I need only give a little more preciſion to the vague ideas, generally entertained of political religion.

Religion, conſidered as it relates to ſociety, which is either general or particular, may be diſtinguiſhed into two kinds, viz. the religion of the man and that of the citizen. The firſt, deſtitute of temples, altars, or rites, confined purely to the internal worſhip of the ſupreme Being, and to the performance of the eternal duties of morality, is the pure and ſimple religion of the goſpel; this is genuine theiſm, and may be called the law of natural divinity. The other, adopted only in one country, whoſe gods and tutelary ſaints are hence peculiar to itſelf, is compoſed of certain dogmas, rites, and external modes of worſhip preſcribed by the laws of ſuch country; all foreigners being accounted Infidels, Aliens and Barbarians; this kind

kind of religion extends the duties and privileges of men no farther than to its own altars. Such were all the religions of primitive ages, to which may be given the name of the law of civil or poſitive divinity.

There is a third kind of religion ſtill more extraordinary, which dividing ſociety into two legiſlatures, two chiefs, and two parties, ſubjects mankind to contradictory obligations, and prevents them from being at once devotees and citizens. Such is the religion of the Lamas, of the Japaneſe, and of the Roman Catholics; which may be denominated the religion of the prieſts, and is productive of a ſort of mixed and unſociable obligation, for which we have no name.

If we examine theſe three kinds of religion in a political light, they have all their faults. The third is ſo palpably defective that it would be mere loſs of time, to point them out. Whatever contributes to diſſolve the ſocial union is good for nothing: all inſtitutions which ſet man in contradiction with himſelf are of no uſe.

The

The ſecond is ſo far commendable as it unites divine worſhip with a reſpect for the laws, and that, making the country the object of the people's adoration, the citizen is taught that to ſerve the ſtate is to ſerve its tutelary divinity. This is a ſpecies of theocracy, in which there ſhould be no other pontiff than the prince, no other prieſts than the magiſtrates. To die, in ſuch a ſtate, for their country, is to ſuffer martyrdom; to violate the laws is impiety; and to doom a criminal to public execration is to devote him to the anger of the gods.

It is blameable, however, in that, being founded on falſehood and deceit, it leads mankind into error; rendering them credulous and ſuperſtitious, it ſubſtitutes vain ceremonies inſtead of the true worſhip of the deity. It is further blameable, in that, becoming excluſive and tyrannical, it makes people ſanguinary and perſecuting; ſo that a nation ſhall ſometimes breathe nothing but murder and maſſacre, and think, at the ſame time, they are doing an holy action in cutting the throats of thoſe who worſhip the gods in a different manner from themſelves. This circumſtance places ſuch a people

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in a natural ſtate of war with all others, which is very unfavourable to their own ſafety.

There remains then only the rational and manly religion of Chriſtianity; not however, as it is profeſſed in modern times, but as it is diſplayed in the goſpel, which is quite another thing. According to this holy, ſublime, and true religion, mankind, being all the children of the ſame God, acknowlege themſelves to be brothers, and the ſociety which unites them diſ-ſolves only in death.

But this religion, having no particular relation to the body politic, leaves the laws in poſſeſſion only of their own force, without adding any thing to it; by which means the firmeſt bonds of ſuch particular ſociety are of no effect. Add to this, that Chriſtianity is ſo far from attaching the hearts of the citizens to the ſtate, that it detaches them from it, as well as from all worldly objects in general: than which nothing can be more contrary to the ſpirit of ſociety.

It is ſaid that a nation of true Chriſtians would form the moſt perfect ſociety imaginable.

To

To this aſſertion, however, there is one great objection; and this is, that a ſociety of true Chriſtians would not be a ſociety of men. Nay, I will go ſo far as to affirm, that this ſuppoſed ſociety, with all its perfection, would neither be of the greateſt ſtrength nor duration. In conſequence of its being perfect, it would want the ſtrongeſt ties of connexion; and thus this very circumſtance would deſtroy it.

Individuals might do their duty, the people might be obedient to the laws, the chiefs might be juſt, the magiſtrate incorrupt, the ſoldiery might look upon death with contempt, and there might prevail neither vanity nor luxury, in ſuch a ſtate. So far all would go well; but let us look farther.

Chriſtianity is a ſpiritual religion, relative only to celeſtial objects: the Chriſtian's inheritance, is not of this world. He performs his duty, it is true, but this he does with a profound indifference for the good or ill ſucceſs of his endeavours. Provided he hath nothing to reproach himſelf with, it is of little importance to him whether matters go well or ill here below.

low. If the ſtate be in a flouriſhing ſituation, he can hardly venture to rejoice in the public felicity, leſt he ſhould be puffed up with the inordinate pride of his country's glory; if the ſtate decline, he bleſſes the hand of God that humbles his people to the duſt.

It is farther neceſſary to the peace and harmony of ſociety, that all the citizens ſhould be without exception equally good Chriſtians; for, if unhappily there ſhould be one of them ambitious or hypocritical, if there ſhould be found among them a Cataline or a Cromwell, it is certain he would make an eaſy prey of his pious countrymen. Chriſtian charity doth not eaſily permit the thinking evil of one's neighbour. No ſooner ſhould an individual diſcover the art of impoſing on the majority, and be inveſted with ſome portion of public authority, than he would become a dignitary. Chriſtians muſt not ſpeak evil of dignities; thus reſpected, he would thence aſſume power; Chriſtians muſt obey the ſuperior powers. Does the depoſitary of power abuſe it? he becomes the rod by which it pleaſes God to chaſtiſe his children.

And, would their conſciences permit them to drive out the uſurper, the public tranquillity muſt be broken, and violence and blood-ſhed ſucceed; all this agrees but ill with the meekneſs of true Chriſtians; and, after all, what is it to them, whether they are freemen or ſlaves in this vale of miſery? Their eſſential concern is to work out their ſalvation, and obtain happineſs in another world; to effect which, their reſignation in this, is held to be their duty.

Should ſuch a ſtate be forced into a war with any neighbouring power? The citizens might march readily to the combat, without thinking of flight; they might do their duty in the field, but they would have no ardour for victory; being better inſtructed to die than to conquer. Of what conſequence is it to them, whether they are victors or vanquiſhed? Think what advantages an impetuous and ſanguine enemy might take of their ſtoiciſm! draw them out againſt a brave and generous people, ardently inſpired with the love of glory and their country; ſuppoſe, for inſtance, your truly Chriſtian republic againſt that of Sparta or of Rome; what would be the conſequence? Your

devout Chriſtians would be beaten, diſcomfited and knocked on the head, before they had time to look about them; their only ſecurity depending on the contempt which their enemy might entertain for them. It was, in my opinion, a fine oath that was taken by the ſoldiers of Fabius. They did not make a vow either to die or conquer; they ſwore they would return conquerors, and punctually performed their oath. Chriſtian troops could not have made ſuch a vow, they would have been afraid of tempting the Lord their God.

But I am all this while committing a blunder, in ſpeaking of a Chriſtian republic; one of theſe terms neceſſarily excluding the other. Chriſtianity inculcates ſervitude and dependence; the ſpirit of it is too favourable to tyrants, for them not ſometimes to profit by it. True Chriſtians are formed for ſlaves; they know it, and never trouble themſelves about conſpiracies and inſurrections; this tranſitory life is of too little value in their eſteem.

Will it be ſaid, the Chriſtians are excellent ſoldiers? I deny it. Produce me your Chri-

ſtian troops. For my part, I know of no true Chriſtian ſoldiers. Do you name thoſe of the Cruſades? I anſwer, that, not to call in queſtion the valour of the Cruſaders, they were very far from being Chriſtian citizens: they were the ſoldiers of the prieſt, the citizens of the church; they fought for its ſpiritual country, which ſome how or other, it had converted into a temporal one. To ſet this matter in the beſt light, it was a kind of return to Paganiſm; for as the goſpel did not eſtabliſh any national religion, an holy war could not poſſibly be carried on by true Chriſtians.

Under the Pagan emperors, the Chriſtian ſoldiers were brave; of this all the Chriſtian writers aſſure us, and I believe them; the motive of their bravery was a ſpirit of honour or emulation, excited by the Pagan troops. But when the emperors became Chriſtians, this motive of emulation no longer ſubſiſted; and when the Croſs had put the Eagle to flight, the Roman valour diſappeared.

But, laying aſide political conſiderations, let us return to the matter of right, and aſcertain

its

its true principles with regard to this important point. The right which the ſocial compact confers on the ſovereign, extending no farther than to public utility *, the ſubject is not accountable to that ſovereign, on account of any opinions he may entertain, that have nothing to do with the community. Now, it is of great importance to a ſtate, that every citizen ſhould be of a religion that may inſpire him with a regard for his duty; but the tenets of that religion are no farther intereſting to the community than as they relate to morals, and to the diſcharge of thoſe obligations, which the profeſſor lies under to his fellow citizens. If we

* *In a republic*, ſays the Marquis d'A. *every one is perfectly at liberty, becauſe no one may injure another.* This is the invariable limit of republican liberty, nor is it poſſible to ſtate the caſe more preciſely. I cannot deny myſelf the pleaſure of ſometimes quoting this manuſcript, though unknown to the public, in order to do honour to the memory of an illuſtrious and reſpectable perſonage, who preſerved the integrity of the citizen even in the miniſtry, and adopted the moſt unpright and ſalutary views in the government of his country.

except theſe, the individual may profeſs what others he pleaſes, without the ſovereign's having any right to interfere; for, having no juriſdiction in the other world, it is nothing to the ſovereign what becomes of the citizens in a future life, provided they diſcharge the duties incumbent on them in the preſent.

There is a profeſſion of Faith, therefore, purely political; the articles of which it is in the province of the ſovereign to aſcertain, not preciſely as articles of religion, but as the ſentiments due to ſociety, without which it is impoſſible to be a good citizen or faithful ſubject *. Without compelling any one to adopt theſe ſentiments, the ſovereign may alſo equitably baniſh him the ſociety; not indeed as impious, but as unſociable, as incapable of having a ſincere re-

* Cæſar, in pleading for Cataline, endeavoured to eſtabliſh the doctrine of the Mortality of the Soul: Cato and Cicero, in anſwer to him, did not enter into a philoſophical diſcuſſion of the argument, but contented themſelves with ſhewing that Cæſar had ſpoken like a bad citizen, and advanced a dogma pernicious to the ſtate. And this was in fact the point only that come before the Senate of Rome, and not a queſtion in theology.

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gard to juſtice, and of ſacrificing his life, if required, to his duty. Again, ſhould any one, after having made a public profeſſion of ſuch ſentiments, betray his diſbelief of them by his miſconduct, he may equitably be puniſhed with death; having committed the greateſt of all crimes, that of belying his heart in the face of the laws.

The tenets of political religion ſhould be few and ſimple; they ſhould be laid down alſo wit preciſion, and without explication or comment. The exiſtence of a powerful, intelligent, beneficent, preſcient and provident Deity; a future ſtate; the reward of the virtuous and the puniſhment of the wicked; the ſacred nature of the ſocial contract, and of the laws; theſe ſhould be its poſitive tenets. As to thoſe of a negative kind I would confine myſelf ſolely to one, by forbidding perſecution.

Thoſe who affect to make a diſtinction between civil and religious toleration, are, in my opinion miſtaken. It is impoſſible to live cordially in peace with thoſe whom we firmly believe devoted to damnation: to love them would be to hate the Deity for puniſhing them, it is therefore abſolutely neceſſary for us either to per-

perſecute or to convert them. Wherever the ſpirit of religious perſecution ſubſiſts, it is impoſſible it ſhould not have ſome effect on the civil police, in which caſe, the ſovereign is no longer ſovereign even in a ſecular view; the prieſts become the real maſters, and kings only their officers.

In modern governments, where it is impoſſible to ſupport an excluſive national religion, it is requiſite to tolerate all ſuch, as breathe the ſpirit of toleration toward others, provided their tenets are not contradictory to the duty of a good citizen. But whoſoever ſhould preſume to ſay, *There is no ſalvation out of the pale of our church*, ought to be baniſhed the ſtate; unleſs indeed the ſtate be an eccleſiaſtical one, and the prince a pontiff. Such a dogma is of uſe only in a theocratical government; in every other it is deſtructive. The reaſon which it is ſaid Henry IV. gave, for embracing the Roman Catholic religion, ought to have made an honeſt man reject it, and more particularly a prince capable of reaſoning on the ſubject.

CHAP.

CHAP. IX.

The Concluſion.

HAVING thus ſtated the true principles of politic law, and endeavoured to fix the ſtate on its proper baſis, it remains to ſhew in what manner it is ſupported by external relations.

Under this head would be comprehended, the laws of nations and commerce, the laws of war and conqueſt, leagues, negotiations, treaties, &c. But theſe preſent a new proſpect, too vaſt and extenſive for ſo ſhort a ſight as mine; which ſhould be confined to objects leſs diſtant and more adapted to my limited capacity.

FINIS.

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